



# भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित  
PUBLISHED BY AUTHORITY  
साप्ताहिक  
WEEKLY

सं. 34] नई दिल्ली, अगस्त 16—अगस्त 22, 2015, शनिवार/श्रावण 25—श्रावण 31, 1937  
No. 34] NEW DELHI, AUGUST 16—AUGUST 22, 2015, SATURDAY/SRAVANA 25—SRAVANA 31, 1937

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके  
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 20 अगस्त, 2015

**का.आ. 1636.**—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का अधिनियम सं० 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए हरियाणा राज्य सरकार, सतर्कता विभाग, चण्डीगढ़ की सहमति से चण्डीगढ़, दिनांक 14 अगस्त, 2015 की अधिसूचना सं० 66/70/215-3-सतर्कता II द्वारा किसानों के लाभ के लिए हरियाणा राज्य में प्रमाणित गेहूं के बीज की बिक्री के लिए हरियाणा राज्य बीज प्रमाणन एजेंसी के प्रमाणन से पूर्व ही अक्टूबर, 2010 में गेहूं के बीज के डीलरों/उत्पादकों द्वारा फफूंदनाशी रेक्सिल 2 प्रतिशत डीएस की खरीद और इसके उपयोग का अनिवार्यतः अधिदेश द्वारा केन्द्रीय सब्सिडी सहित सरकारी सब्सिडी के कथित दुर्विनियोजन के आरोपों का अन्वेषण करने इससे संबंधित अपराधों, दुष्प्रेरण और इससे संबंधित षडयंत्र और उक्त तथ्यों के परिचालन से उत्पन्न होने वाले अन्य अपराध या अपराधों के प्रयास, दुष्प्रेरण के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापन के सदस्यों की शक्तियों और न्यायाधिकार क्षेत्र का विस्तार संपूर्ण हरियाणा राज्य पर करती है।

[फा० सं० 228/38/2015-एवीडी-II]

अजीत कुमार, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES  
AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 20th August, 2015

**S.O. 1636.**—In exercise of the powers conferred by sub-section(1) of section 5 with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Haryana Government, Vigilance Department, Chandigarh vide Notification No. 66/70/215-3 Vig. II dated Chandigarh, the 14th August, 2015, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Haryana for investigation into the allegations regarding the alleged misappropriation of the Government subsidies, including central subsidies, meant for the benefit of farmers, by compulsorily mandating the purchase and use of the fungicide Raxil 2% DS by wheat seed dealers/growers in October, 2010 before their certification by Haryana State Seed Certification Agency for sale of certified wheat seeds in Haryana State and related offences, abetment and conspiracies in relation thereto or in connection therewith and any other offence or offences committed as part of the

same transaction or arising out of the same facts and attempt abetment and conspiracy in relation to or in connection with the above mentioned offences and any other offence or offences committed in course of the same transaction or arising out of the same facts.

[F.No. 228/38/2015-AVD-III]

AJIT KUMAR, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 19 अगस्त, 2015

**का.आ. 1637.**—तस्कर एवं विदेशी विनिमय छलसाधक (सम्पत्ति का सम्पहरण) अधिनियम, 1976 (1976 का 13) की धारा 12 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा भारत सरकार, वित्त मंत्रालय (राजस्व विभाग) की अधिसूचना सं० सांकां० 3(अ), दिनांक 3 जनवरी, 1977 में निम्नलिखित संशोधन करती है, वस्तुतः—

उक्त अधिसूचना में, 'श्री के० के० झा' शब्द और अक्षरों के लिए 'श्री कौशल श्रीवास्तव' शब्द और अक्षर अन्तः स्थापित किए जाएंगे।

[सं. 3/2015/फा० सं० ए-12026/2/2015-एस ओ (सी ए)]

एस० भौमिक, अवर सचिव

**टिप्पणः**—दिनांक 3 जनवरी, 1977 की मूल अधिसूचना सं० सांकां० 3(अ), को सांकां० 323(अ), दिनांक 17 जून, 1978 सांकां० 528(अ), 16 मई, 1984, सांकां० 1039(अ), दिनांक 26 अगस्त, 1986, सांकां० 1214(अ), दिनांक 18 नवम्बर, 1986, सांकां० 89(अ), दिनांक 17 फरवरी, 1988, सांकां० 11(अ), दिनांक 9 जनवरी, 1989, सांकां० 713(अ), दिनांक 16 अगस्त, 1990, सांकां० 723(अ), दिनांक 24 अक्टूबर, 1991, सांकां० 160(अ), दिनांक 10 फरवरी, 1994, सांकां० 170(अ), दिनांक 21 मार्च, 1997, सांकां० 381(अ), दिनांक 21 मई, 1999, सांकां० 97(अ), दिनांक 15 फरवरी, 2001, सांकां० 127(अ), दिनांक 25 फरवरी, 2003, सांकां० 388(अ), दिनांक 8 मई, 2003, सांकां० 433(अ), दिनांक 30 जून, 2005, का०आ० 2094(अ), दिनांक 5 दिसम्बर, 2007 और का०आ० 968 दिनांक 2 नवम्बर, 2012 द्वारा संशोधित किया गया।

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 19th August, 2015

**S.O. 1637.**—In exercise of the powers conferred by sub-section (1) of section 12 of the Smugglers and Foreign Exchange Manipulators (Forfeiture of property) Act, 1976 (13 of 1976), the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. G.S.R. 3 (E) dated the 3rd January, 1977, namely:—

In the said notification, for the words and letters 'Shri K.K. Jha', the words and letters 'Shri Kaushal Srivastava' shall be substituted.

[No.3/2015/F.No. A. 12026/2/2015-SO(CA)]

S. BHOWMICK, Under Secy.

**Note:**—The Principal Notification No. G.S.R.3(E) dated the 3rd January, 1977 was amended by G.S.R. 323(E) dated the 17th June, 1978 G.S.R. 528(E) Dated the 16th May, 1984 G.S.R. 1039(E) dated the 26th August, 1986, G.S.R. 1214(E) dated the 18th November, 1986, G.S.R. 89(E) dated the 17th February, 1988, G.S.R. 11(E) dated the 9th January, 1989, G.S.R. 713(E) dated the 16 August, 1990, G.S.R. 723(E) dated the 24th October, 1991, G.S.R. 160(E) dated the 10th February, 1994, G.S.R. 170(E) dated 21st March, 1997, G.S.R. 381(E) dated 21st May, 1999, G.S.R. 97(E) dated 15th February, 2001 G.S.R. 127(E) dated 25th February, 2003, G.S.R. 388(E) dated 8th May, 2003, G.S.R. 433(E) dated 30th June, 2005, S.O. 2094(E) dated 5th December, 2007 and S.O. 968 dated 2nd November, 2012.

नई दिल्ली, 19 अगस्त, 2015

**का.आ. 1638.**—जबकि केन्द्र सरकार ने (कार्यालय आदेश सं० 147/2015) जो कि फा० सं० ए-12026/01/2015-प्रशा० I दिनांक 30 जून, 2015 के तहत जारी किया गया था, द्वारा भारतीय राजस्व सेवा के अधिकार श्री कौशल श्रीवास्तव (सीमा शुल्क एवं केन्द्रीय उत्पाद शुल्क: 78) को सम्पूत संपत्ति अपील अधिकरण के सदस्य के रूप में उनके उक्त पद का कार्यप्रभार ग्रहण करने की तारीख से नियुक्त किया था।

और जबकि, श्री कौशल श्रीवास्तव ने दिनांक 30 जून, 2015 के अपराहन से उक्त अधिकरण के सदस्य के कार्यालय का कार्यभार ग्रहण किया था।

इसलिए, अब, सम्पूत संपत्ति अपील अधिकरण (अध्यक्ष एवं सदस्य की सेवा शर्तें) नियमावली, 1978 के नियम 11 के उपनियम (2) के साथ पठित स्वापक औषधि और मनःप्रभावी पदार्थ अधिनियम, 1985 (1985 का 61) की धारा 68ड की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा श्री कौशल श्रीवास्तव को यथोक्त अधिकरण के सदस्य के रूप में नियुक्ति अधिसूचित करती है।

श्री कौशल श्रीवास्तव बासठ वर्ष की आयु प्राप्त करने तक अथवा अगले आदेशों तक, इसमें जो भी पहले हो, यह पद ग्रहण करेंगे।

[सं० 6/2015/फा० सं० ए-12026/2/2015-एस ओ (सी ए)]

एस० भौमिक, अवर सचिव

New Delhi, the 19th August, 2015

**S.O. 1638.**—Whereas Central Government by Office Order No. 147/2015, bearing file No. A. 12026/1/2015-Ad. I dated 30/6/2015, appointed Shri Kaushal Srivastava, an officer of the Indian Revenue Service (C & CE:78) as Member of the Appellate Tribunal for Forfeited Property with effect from the date he takes over charge of the post.

And whereas, Shri Kaushal Srivastava assumed charge of the office of Member of the said Tribunal in the Afternoon of the 30th June, 2015.

Now, therefore, in exercise of the Powers conferred by Sub-Section (1) of Section 68N of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985), read with sub-rule (2) of Rule 11 of the Appellate Tribunal for Forfeited Property (Conditions of service of Chairman and Members) Rules, 1989, the Central Government hereby notifies the appointment of Shri Kaushal Srivastava as a Member of the aforesaid Tribunal.

Shri Kaushal Srivastava shall hold office till he attains the age of sixty-two years or until further orders, whichever is earlier.

[No. 6/2015/F.No. A-12026/2/2015-SO(CA)]  
S. BHOWMICK, Under Secy.

नई दिल्ली, 19 अगस्त, 2015

**का.आ. 1639.**—जबकि केन्द्र सरकार ने (कार्यालय आदेश सं० 147/2015) जोकि फा०सं० 12026/01/2015-प्रशा I दिनांक 30 जून, 2015 के तहत जारी किया गया था, द्वारा भारतीय राजस्व सेवा के अधिकारी श्री कौशल श्रीवास्तव (सीमा शुल्क एवं केन्द्रीय उत्पाद शुल्क: 78, को सम्पहत संपत्ति अपील अधिकरण के सदस्य के रूप में उनके उक्त पद का कार्यभार ग्रहण करने की तारीख से नियुक्त किया था।

और जबकि, श्री कौशल श्रीवास्तव ने दिनांक 30 जून, 2015 के अपराह्न से उक्त अधिकरण के सदस्य के कार्यालय का कार्यभार ग्रहण किया था।

इसलिए, अब, सम्पहत संपत्ति अपील अधिकरण (अध्यक्ष एवं सदस्य की सेवा शर्तों) नियमावली, 1978 के नियम 11 के उपनियम (2) के साथ पठित तस्कर एवं विदेशी मुद्रा छलसाधक (संपत्ति सम्पहरण) अधिनियम, 1976 (1976 का 13) की धारा 12 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा श्री कौशल श्रीवास्तव को यथोक्त अधिकरण के सदस्य के रूप में नियुक्ति अधिसूचित करती है।

श्री कौशल श्रीवास्तव बासठ वर्ष की आयु प्राप्त करने तक अथवा अगले आदेशों तक, इसमें जो भी पहले हो, यह पद ग्रहण करेंगे।

[सं० 5/2015/फा०सं० 12026/2/2015-एसओ (सीए)]  
एस० भौमिक, अवर सचिव

New Delhi, the 19th August, 2015

**S.O. 1639.**—Whereas Central Government by (Office Order No. 147/2015) bearing file No. A. 12026/01/2015-AD. 1 dated the 30th June, 2015, appointed Shri Kaushal Srivastava, an officer of the Indian Revenue Service (C&CE: 78) as Member of the Appellate Tribunal for Forfeited Property with effect from the date he takes over charge of the post.

And Whereas, Shri Kaushal Srivastava assumed charge of the Office of Member of the said Tribunal in the afternoon of 30th June, 2015.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 12 of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (13 of 1976), read with sub-rule (2) of rule 11 of the Appellate Tribunal for Forfeited Property (Conditions of Service of Chairman and Member) Rules, 1978, the Central Government hereby notifies the appointment of Shri Kaushal Srivastava as a Member of the aforesaid Tribunal;

Shri Kaushal Srivastava shall hold office till he attains the age of sixty-two years or until further orders whichever is earlier.

[No. 5/2015/F.No. A.12026/2/2015-SO(CA)]

S. BHOWMICK, Under Secy.

नई दिल्ली, 19 अगस्त, 2015

**का.आ. 1640.**—स्वापक औषधि और मनःप्रभावी पदार्थ अधिनियम, 1985 (1985 का 61) की धारा 68ड की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा भारत सरकार, वित्त मंत्रालय (राजस्व विभाग) की अधिसूचना सं०का०आ० 967(अ), दिनांक 2 नवम्बर, 2012 में निम्नलिखित अतिरिक्त संशोधन करती है, नामतः—

उक्त अधिसूचना में, 'श्री के० के० झा' शब्द और अक्षरों के लिए 'श्री कौशल श्रीवास्तव' शब्द और अक्षर अन्तः स्थापित किए जाएंगे।

[सं० 4/2015/फा०सं० 12026/2/2015-एसओ (सीए)]

एस० भौमिक, अवर सचिव

**टिप्पणः**—दिनांक 29 मई, 1989 की मूल अधिसूचना सं० सा०का०नि० 385(अ) को सा०का०नि० 713(अ), दिनांक 16 अगस्त, 1990 का०आ० 47 (अ), 22 जनवरी, 1994, सा०का०नि० 723(अ) दिनांक 24 अक्टूबर, 1991, का०आ० 191(अ), दिनांक 8 फरवरी, 1994, का०आ० 363(अ), दिनांक 21 मई, 1999, का०आ० 137(अ) दिनांक 15 फरवरी, 2001, का०आ० 229(अ) दिनांक 25 फरवरी, 2003, का०आ० 511(अ) दिनांक 8 मई, 2003, का०आ० 915(अ) दिनांक 30 जून, 2005 तथा का०आ० 1849(अ), दिनांक 27 अक्टूबर, 2006, का०आ० 2096(अ), दिनांक 5 दिसम्बर, 2005 तथा का०आ० 967(अ) दिनांक 2 नवम्बर, 2012 द्वारा संशोधित किया गया।

New Delhi, the 19th August, 2015

**S.O. 1640.**—In exercise of the powers conferred by sub-section (1) of Section 68N of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985) the Central Government hereby makes the following further amendment in the notification of the Government of India, in the Ministry of Finance (Department of Revenue) No. S.O. 967 dated 02/11/2012 namely:—

In the said notification, for the words and letters 'Shri K.K. Jha', the words and letters 'Shri Kaushal Srivastava' shall be substituted.

[No. 4/2015/F.No. A-12026/2/2015-SO(CA)]

S. BHOWMICK, Under Secy.

**Note:**—The Principal Notification No. S.O. 385(E), dated the 29th May, 1989 was amended by G.S.R. 713(E), dated the 16th August, 1990, S.O. 47 (E), dated the 22nd January, 1994, G.S.R. 723(E) dated the 24th October, 1991, S.O. 191(E) dated 8th February, 1994, S.O. 363 (E) dated 21st May, 1999, S.O. 137(E) dated 15th February, 2001, S.O. 229(E), dated 25th February, 2003, S.O. 511 (E) dated 8th May, 2003, S.O. 915(E) dated 30th June, 2005 and S.O. 1849(E) dated 27th October, 2006, S.O. 2096(E) dated 5th December, 2005 and S.O. 967 dated 2nd November, 2012.

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 21 अगस्त, 2015

**का.आ. 1641.**—रुण औद्योगिक कंपनी (विशेष उपबंध) अधिनियम, 1985 की धारा 6 की उप-धारा (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, न्यायमूर्ति महाराज सिन्हा, अध्यक्ष, औद्योगिक और वित्तीय पुनर्निर्माण अपीलीय प्राधिकरण (एएआईएफआर) के कार्यकाल के दिनांक 15.08.2015 को पूरा होने के परिणामस्वरूप, श्री आर. सी. मिश्रा को औद्योगिक और वित्तीय पुनर्निर्माण अपीलीय प्राधिकरण (एएआईएफआर) के वरिष्ठतम सदस्य होने के कारण उन्हें पदभार ग्रहण करने की तारीख से 65 वर्ष की आयु प्राप्त करने तक या एएआईएफआर के समापन तक या अगले आदेशों तक जो भी पहले हो, औद्योगिक और वित्तीय पुनर्निर्माण अपीलीय प्राधिकरण में अध्यक्ष के रूप में कार्य करने के लिए प्राधिकृत करती है।

[फा सं 20/2/2012-आईएफ-II]  
अतीश सिंह, निदेशक

(Department of Financial Services)

New Delhi, the 21st August, 2015

**S.O. 1641.**—Consequent upon completion of tenure of justice Maharaj Sinha, Chairman, Appellate Authority for Industrial and Financial Reconstruction (AAIFR) on 15.08.2015, the Central Government, in exercise of the powers conferred by sub-section (5) of Section 6 of the Sick Industrial Companies (Special Provisions) Act, 1985, hereby authorise Shri R.C. Mishra, being the senior most Member in AAIFR, to act as Chairman, AAIFR with effect from the date of assumption of the charge of the post till he attain the age of 65 years or till the abolition of AAIFR or until further orders, whichever event takes place earliest.

[F. No. 20/2/2012-IF-II]  
ATEESH SINGH, Director

परमाणु ऊर्जा विभाग

मुम्बई, 13 अगस्त, 2015

**का.आ. 1642.**—केन्द्रीय सरकार, परमाणु ऊर्जा विभाग के अंतर्गत परमाणु खनिज अन्वेषण एवं अनुसंधान निदेशालय, हैदराबाद की एक

यूनिट परमाणु खनिज अन्वेषण एवं अनुसंधान निदेशालय (दक्षिणी क्षेत्र) बेंगलुरु को, जिसके 80% से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में अधिसूचित करती है।

[सं 6/7/94-हिन्दी]

संजीव सूद, संयुक्त सचिव (उद्योग एवं खनिज)

DEPARTMENT OF ATOMIC ENERGY

Mumbai, the 13th August, 2015

**S.O. 1642.**—In pursuance of sub-rule (4) of Rule 10 of the Official languages (Use for official purpose of the Union) Rules, 1976, the Central Government hereby notifies the Atomic Minerals Directorate for Exploration & Research, (Southern Region) Bengaluru, a Unit of Atomic Minerals Directorate for Exploration & Research, Hyderabad under the Department of Atomic Energy, where more than 80% staff has acquired working knowledge of Hindi.

[No. 6/7/94-Hindi]

SANJEEV SOOD, Jt. Secy. (I&M)

पोत परिवहन मंत्रालय

नई दिल्ली, 23 जुलाई, 2015

**का.आ. 1643.**—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित 1987) के नियम 10 के उप-नियम 4 के अनुसरण में पोत परिवहन मंत्रालय, के प्रशासनिक नियंत्रण के अधीन निम्नलिखित कार्यालय में 80% से अधिक कर्मचारियों द्वारा हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लेने पर उसे एतद्वारा अधिसूचित करती है:—

उप महानिदेशक, दीपस्तंभ और दीपपोत निदेशालय, वी टी एस, गांधीधाम, कंडला, गुजरात-370210।

[फा सं ई-11011/2/2015-हिन्दी]

सी.बी. सिंह, सलाहकार

MINISTRY OF SHIPPING

New Delhi, the 23rd July, 2015

**S.O. 1643.**—In pursuance of the sub rule (4) of the rule 10 the Official Language (use for the official purpose of the Union) rules, 1976 (as amended), the Central Government hereby notifies the following office under the administrative control of the Ministry of Shipping, more than 80% of the staff of which have acquired working knowledge of Hindi:—

Deputy Director General, Directorate of Lighthouse and Lightships VTS, Gandhidham, Kandla, Gujarat-370210.

[F. No. E-11011/2/2015-Hindi]

C.B. SINGH, Advisor



**स्वास्थ्य एवं परिवार कल्याण मंत्रालय****(स्वास्थ्य एवं परिवार कल्याण विभाग)**

नई दिल्ली, 24 जुलाई, 2015

**का.आ. 1644.**—भारतीय चिकित्सा परिषद अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार, भारतीय चिकित्सा परिषद से परामर्श करने के पश्चात्, एतद्वारा उक्त अधिनियम की प्रथम अनुसूची में और निम्नलिखित संशोधन करती है, अर्थात् :

उक्त अनुसूची में—

(क) 'सिक्किम मणिपाल स्वास्थ्य, चिकित्सा और तकनीकी विज्ञान विश्वविद्यालय' के सामने 'मान्यताप्राप्त चिकित्साअर्हता' [आगे कॉलम (2) के तौर पर उल्लिखित] शीर्ष के अंतर्गत, अंतिम प्रविष्टि के बाद और 'पंजीकरण के लिए संक्षिप्त रूप' [आगे कॉलम (3) के तौर पर उल्लिखित] शीर्षक के अंतर्गत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात् :—

2	3
डॉक्टर ऑफ मेडिसिन (कम्युनिटी मेडिसिन)	एमडी (कम्युनिटी मेडिसिन)  (यह 2014 में अथवा उसके बाद सिक्किम मणिपाल आयुर्विज्ञान संस्थान, गंगटोक में प्रशिक्षित किए जा रहे छात्रों के संबंध में सिक्किम मणिपाल स्वास्थ्य, चिकित्सा और तकनीकी विज्ञान विश्वविद्यालय द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)
डॉक्टर ऑफ मेडिसिन (फार्माकोलोजी)	एमडी (फार्माकोलोजी)  (यह 2014 में अथवा उसके बाद सिक्किम मणिपाल आयुर्विज्ञान संस्थान, गंगटोक में प्रशिक्षित किए जा रहे छात्रों के संबंध में सिक्किम मणिपाल स्वास्थ्य, चिकित्सा और तकनीकी विज्ञान विश्वविद्यालय द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)
डॉक्टर ऑफ मेडिसिन (बायोकेमेस्ट्री)	एमडी (बायोकेमेस्ट्री)  (यह 2014 में अथवा उसके बाद सिक्किम मणिपाल आयुर्विज्ञान संस्थान, गंगटोक में प्रशिक्षित किए जा रहे छात्रों के संबंध में सिक्किम मणिपाल स्वास्थ्य, चिकित्सा और तकनीकी विज्ञान विश्वविद्यालय द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)

(ख) 'त्रिपुरा विश्वविद्यालय, अगरतला, त्रिपुरा' के सामने 'मान्यता प्राप्त चिकित्सा अर्हता' [आगे कॉलम (2) के तौर पर उल्लिखित] शीर्ष के अंतर्गत, अंतिम प्रविष्टि के बाद और 'पंजीकरण के लिए संक्षिप्त रूप' [आगे कॉलम (3) के तौर पर उल्लिखित] शीर्षक के अंतर्गत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात् :—

2	3
डॉक्टर ऑफ मेडिसिन (फॉरेंसिक मेडिसिन)	एमडी (फॉरेंसिक मेडिसिन)  (यह 2014 में अथवा उसके बाद अगरतला सरकारी मेडिकल कॉलेज, अगरतला में प्रशिक्षित किए जा रहे छात्रों के संबंध में त्रिपुरा विश्वविद्यालय, अगरतला, त्रिपुरा द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)
डॉक्टर ऑफ मेडिसिन (माइक्रोबायोलोजी)	एमडी (माइक्रोबायोलोजी)  (यह 2014 में अथवा उसके बाद अगरतला सरकारी मेडिकल कॉलेज, अगरतला में प्रशिक्षित किए जा रहे छात्रों के संबंध में त्रिपुरा विश्वविद्यालय, अगरतला, त्रिपुरा द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)
डॉक्टर ऑफ मेडिसिन	एमडी (कम्युनिटी मेडिसिन)

2	3
(कम्युनिटी मेडिसिन)	(यह 2014 में अथवा उसके बाद अगरतला सरकारी मेडिकल कॉलेज, अगरतला में प्रशिक्षित किए जा रहे छात्रों के संबंध में त्रिपुरा विश्वविद्यालय, अगरतला, त्रिपुरा द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)
मास्टर ऑफ सर्जरी (ईएनटी)	मास्टर ऑफ सर्जरी (ईएनटी) (यह 2014 में अथवा उसके बाद अगरतला सरकारी मेडिकल कॉलेज, अगरतला में प्रशिक्षित किए जा रहे छात्रों के संबंध में त्रिपुरा विश्वविद्यालय, अगरतला, त्रिपुरा द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)

(ग) 'आयुष और स्वास्थ्य विश्वविद्यालय, रायपुर' के सामने 'मान्यता प्राप्त चिकित्सा अर्हता' [आगे कॉलम (2) के तौर पर उल्लिखित, शीर्ष के अंतर्गत] अंतिम प्रविष्टि के बाद और 'पंजीकरण के लिए संक्षिप्त रूप' [आगे कालम (3) के तौर पर उल्लिखित] शीर्षक के अंतर्गत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात् :—

2	3
डॉक्टर ऑफ मेडिसिन (बायोकेमेस्ट्री)	एमडी (बायोकेमेस्ट्री) (यह 2014 में अथवा उसके बाद पं० जे०एन०एम० मेडिकल कॉलेज, रायपुर में प्रशिक्षित किए जा रहे छात्रों के संबंध में आयुष और स्वास्थ्य विश्वविद्यालय, रायपुर द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)

(घ) 'शेर-ए-कश्मीर आयुर्विज्ञान संस्थान, श्रीनगर (डीमड विश्वविद्यालय)' के सामने 'मान्यता प्राप्त चिकित्सा अर्हता' [आगे कॉलम (2) के तौर पर उल्लिखित] शीर्ष के अंतर्गत, अंतिम प्रविष्टि के बाद और 'पंजीकरण के लिए संक्षिप्त रूप' [आगे कालम (3) के तौर पर उल्लिखित] शीर्षक के अंतर्गत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात् :—

2	3
डॉक्टर ऑफ मेडिसिन (रेडियो डायग्नोसिस)	एमडी (रेडियो डायग्नोसिस) (यह 2014 में अथवा उसके बाद शेर-ए-कश्मीर आयुर्विज्ञान संस्थान, सौरा, श्रीनगर में प्रशिक्षित किए जा रहे छात्रों के संबंध में शेर-ए-कश्मीर आयुर्विज्ञान संस्थान, श्रीनगर (डीमड विश्वविद्यालय) द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)

(ङ) 'इंदिरा गांधी आयुर्विज्ञान संस्थान, पटना (डीमड विश्वविद्यालय)' के सामने 'मान्यता प्राप्त चिकित्सा अर्हता' [आगे कॉलम (2) के तौर पर उल्लिखित] शीर्ष के अंतर्गत, अंतिम प्रविष्टि के बाद और 'पंजीकरण के लिए संक्षिप्त रूप' [आगे कालम (3) के तौर पर उल्लिखित] शीर्षक के अंतर्गत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात् :—

2	3
डॉक्टर ऑफ मेडिसिन (माइक्रोबायोलोजी)	एमडी (माइक्रोबायोलोजी) (यह 2014 में अथवा उसके बाद इंदिरा गांधी आयुर्विज्ञान संस्थान, शेखपुरा, पटना में प्रशिक्षित किए जा रहे छात्रों के संबंध में इंदिरा गांधी आयुर्विज्ञान संस्थान, पटना (डीमड विश्वविद्यालय) द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)
डॉक्टर ऑफ मेडिसिन (बायोकेमेस्ट्री)	एमडी (बायोकेमेस्ट्री) (यह 2014 में अथवा उसके बाद 'इंदिरा गांधी आयुर्विज्ञान संस्थान, शेखपुरा, पटना में प्रशिक्षित किए जा रहे छात्रों के संबंध में इंदिरा गांधी आयुर्विज्ञान संस्थान, पटना (डीमड विश्वविद्यालय) द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)

(च) 'आर्यभट्ट नॉलेज विश्वविद्यालय, पटना' के सामने 'मान्यता प्राप्त चिकित्सा अर्हता' [आगे कॉलम (2) के तौर पर उल्लिखित] शीर्षक के अंतर्गत, अंतिम प्रविष्टि के बाद और 'पंजीकरण के लिए संक्षिप्त रूप' [आगे कॉलम (3) के तौर पर उल्लिखित] शीर्षक के अंतर्गत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात् :—

2	3
डॉक्टर ऑफ मेडिसिन (एनाटोमी)	एमडी (एनाटोमी) (यह 2014 में अथवा उसके बाद नालंदा मेडिकल कॉलेज, पटना में प्रशिक्षित किए जा रहे छात्रों के संबंध में आर्यभट्ट नॉलेज विश्वविद्यालय, पटना द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)

(छ) 'बाबा फरीद स्वास्थ्य विज्ञान विश्वविद्यालय, फरीदकोट' के सामने 'मान्यता प्राप्त चिकित्सा अर्हता' [आगे कॉलम (2) के तौर पर उल्लिखित] शीर्षक के अंतर्गत, अंतिम प्रविष्टि के बाद और 'पंजीकरण के लिए संक्षिप्त रूप' [आगे कॉलम (3) के तौर पर उल्लिखित] शीर्षक के अंतर्गत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात् :—

2	3
डॉक्टर ऑफ मेडिसिन (बायोकेमेस्ट्री)	एमडी (बायोकेमेस्ट्री) (यह 2014 में अथवा उसके बाद गुरु गोविंद सिंह मेडिकल कॉलेज, फरीदकोट में प्रशिक्षित किए जा रहे छात्रों के संबंध में बाबा फरीद स्वास्थ्य विज्ञान विश्वविद्यालय, फरीदकोट द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)
मास्टर ऑफ चिरूरजी (कार्डियो (थोरासिक एंड वस्कुलर सर्जरी)	एम०सी०एच०(कार्डियो थोरासिक एंड वस्कुलर सर्जरी) (यह 2014 में अथवा उसके बाद दयानन्द मेडिकल कॉलेज, लुधियाना में प्रशिक्षित किए जा रहे छात्रों के संबंध में बाबा फरीद स्वास्थ्य विज्ञान विश्वविद्यालय, फरीदकोट द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)
मास्टर ऑफ चिरूरजी (यूरोलोजी/जेनिटो-यूरेनरी सर्जरी)	एम०सी०एच०(यूरोलोजी/जेनिटो-यूरेनरी सर्जरी) (यह 2014 में अथवा उसके बाद दयानन्द मेडिकल कॉलेज, लुधियाना में प्रशिक्षित किए जा रहे छात्रों के संबंध में बाबा फरीद स्वास्थ्य विज्ञान विश्वविद्यालय, फरीदकोट द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)

- सभी के लिए टिप्पणी:—1. स्नातकोत्तर पाठ्यक्रम के लिए स्वीकृत मान्यता 5 वर्ष की अधिकतम अवधि के लिए होगी जिसके बाद इसका नवीकरण किया जाएगा।
2. उप-धारा 4 में अपेक्षित अनुसार मान्यता को समय पर नवीकरण नहीं कराने के फलस्वरूप संबंधित स्नातकोत्तर पाठ्यक्रम में निरपवाद रूप से दाखिला बन्द हो जाएगा।

[सं० यू-12012/474/2015-एमई(पी-II)]

सुधीर कुमार, अवर सचिव

## MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 24th July, 2015

**S.O. 1644.**—In exercise of the powers conferred by sub-section (2) of the Section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:—

In the said Schedule:—

(a) against "Sikkim Manipal University of Health, Medical & Tech. Scs" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

2	3
"Doctor of Medicine ((Community Medicine))"	MD (Community Medicine) (This shall be a recognised medical qualification when granted by Sikkim Manipal University of Health, Medical & Tech. Scs in respect of students being trained at Sikkim Manipal Institute of Medical Sciences, Gangtok on or after 2014)
"Doctor of Medicine ((Pharmacology))"	MD (Pharmacology) (This shall be a recognised medical qualification when granted by Sikkim Manipal University of Health, Medical & Tech. Scs in respect of students being trained at Sikkim Manipal Institute of Medical Sciences, Gangtok on or after 2014)
"Doctor of Medicine (Biochemistry)"	MD (Biochemistry) (This shall be a recognised medical qualification when granted by Sikkim Manipal University of Health, Medical & Tech. Scs in respect of students being trained at Sikkim Manipal Institute of Medical Sciences, Gangtok on or after 2014)

(b) against "Tripura University, Agartala, Tripura" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

2	3
"Doctor of Medicine (Forensic Medicine)"	MD (Forensic Medicine) (This shall be a recognised medical qualification when granted by Tripura University, Agartala, Tripura in respect of students being trained at Agartala Government Medical College, Agartala on or after 2014)
"Doctor of Medicine (Microbiology)"	MD (Microbiology) (This shall be a recognised medical qualification when granted by Tripura University, Agartala, Tripura in respect of students being trained at Agartala Government Medical College, Agartala on or after 2014)
"Doctor of Medicine (Community Medicine)"	MD (Community Medicine) (This shall be a recognised medical qualification when granted by Tripura University, Agartala, Tripura in respect of students being trained at Agartala Government Medical College, Agartala on or after 2014)
"Doctor of Surgery (ENT)"	Master of Surgery (ENT) (This shall be a recognised medical qualification when granted by Tripura University, Agartala, Tripura in respect of students being trained at Agartala Government Medical College, Agartala on or after 2014)

(c) against "Ayush and Health University, Raipur" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—



2	3
"Doctor of Medicine (Biochemistry)"	MD (Biochemistry) (This shall be a recognised medical qualification when granted by Ayush and Health University. Raipur in respect of the students being trained at Pt. J.N.M. Medical College, Raipur on or after 2014)

(d) against "Sher-I-Kashmir Institute of Medical Sciences, Srinagar (Deemed University)" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

2	3
"Doctor of Medicine (Radio Diagnosis)"	MD (Radio Diagnosis) [This shall be a recognised medical qualification when granted by Sher-I-Kashmir Institute of Medical Sciences, Srinagar (Deemed University) in respect of the students being trained at Sher-I-Kashmir Institute of Medical Sciences, Soura, Srinagar on or after 2014]

(e) against "Indira Gandhi Institute of Medical Sciences, Patna (Deemed University)" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

2	3
"Doctor of Medicine (Microbiology)"	MD (Microbiology) [This shall be a recognised medical qualification when granted by Indira Gandhi Institute of Medical Sciences, Patna (Deemed University) in respect of the students being trained at Indira Gandhi Institute of Medical Sciences, Sheikhpura, Patna on or after 2014]
"Doctor of Medicine (Biochemistry)"	MD (Biochemistry) [This shall be a recognised medical qualification when granted by Indira Gandhi Institute of Medical Sciences, Patna (Deemed University) in respect of the students being trained at Indira Gandhi Institute of Medical Sciences, Sheikhpura, Patna on or after 2014]

(f) against Aryabhatta Knowledge University, Patna under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

2	3
"Doctor of Medicine (Anatomy)"	MD (Anatomy) (This shall be a recognised medical qualification when granted by Aryabhatta Knowledge University, Patna in respect of the students being trained at Nalanda Medical College, Patna on or after 2014)

(g) against "Baba Farid University of Health Sciences, Faridkot" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

2	3
"Doctor of Medicine (Biochemistry)"	MD (Biochemistry) (This shall be a recognised medical qualification when granted by Baba Farid University of Health Sciences, Faridkot in respect of the students being trained Guru Gobind Singh Medical College, Faridkot on or after 2014)

1	2
"Master of Chirurgie (Cardio Thoracic and Vascular Surgery)"	"M.Ch (Cardio Thoracic and Vascular Surgery)"  (This shall be a recognised medical qualification when granted by Baba Farid University of Health Sciences, Faridkot in respect of the students being trained Dayanand Medical College, Ludhiana on or after 2014).
"Master of Chirurgie (Urology/Genito-Urinary Surgery)"	M.Ch (Urology/Genito-Urinary Surgery)"  (This shall be a recognised medical qualification when granted by Baba Farid University of Health Sciences, Faridkot in respect of the students being trained Dayanand Medical College, Ludhiana on or after 2014).

**Note to all:** 1. The recognition so granted to a Postgraduate Course shall be for a maximum period of 5 years, upon which it shall have to be renewed.

2. Failure to seek timely renewal of recognition as required in sub-clause-4 shall invariably result in stoppage of admissions to the concerned Postgraduate Course.

[No.U.12012/474/2015-ME(P-II)]

SUDHIR KUMAR, Under Secy.

नई दिल्ली, 24 जुलाई, 2015

**का.आ. 1645.**—भारतीय चिकित्सा परिषद अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय चिकित्सा परिषद से परामर्श करने के पश्चात् एतद्वारा उक्त अधिनियम की प्रथम अनुसूची में निम्नलिखित और संशोधन करती है, अर्थात् :—

उक्त अनुसूची में:—

(क) “एमजेपी रोहिलखंड विश्वविद्यालय, बरेली, उत्तर प्रदेश” के सामने ‘मान्यता प्राप्त चिकित्सा अर्हता’ [इसके बाद कालम (2) के रूप में संदर्भित] शीर्ष के अंतर्गत अंतिम प्रविष्टि तथा उससे संबंधित प्रविष्टि के बाद ‘पंजीकरण के लिए संक्षिप्त रूप’ [इसके बाद कालम (3) के रूप में संदर्भित] शीर्षक के तहत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात् :—

2	3
“डॉक्टर ऑफ मेडिसिन (सामुदायिक चिकित्सा)”	एमडी (सामुदायिक चिकित्सा) (यह वर्ष 2014 में या उसके बाद श्री राम मूर्ति स्मारक आयुर्विज्ञान संस्थान, बरेली, उत्तर प्रदेश में प्रशिक्षित किए जा रहे छात्रों के संबंध में एमजेपी रोहिलखंड विश्वविद्यालय, बरेली, उत्तर प्रदेश द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी।)
“डॉक्टर ऑफ मेडिसिन (सामान्य चिकित्सा)”	एमडी (सामान्य चिकित्सा) (यह वर्ष 2014 में या उसके बाद श्री राम मूर्ति स्मारक आयुर्विज्ञान संस्थान, बरेली, उत्तर प्रदेश में प्रशिक्षित किए जा रहे छात्रों के संबंध में एमजेपी रोहिलखंड विश्वविद्यालय, बरेली, उत्तर प्रदेश द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी।)
“डॉक्टर ऑफ मेडिसिन (फार्माकोलॉजी)”	एमडी (फार्माकोलॉजी) (यह वर्ष 2014 में या उसके बाद श्री राम मूर्ति स्मारक आयुर्विज्ञान संस्थान, बरेली, उत्तर प्रदेश में प्रशिक्षित किए जा रहे छात्रों के संबंध में एमजेपी रोहिलखंड विश्वविद्यालय, बरेली, उत्तर प्रदेश द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी।)
“डॉक्टर ऑफ मेडिसिन (नेत्र रोग विज्ञान)”	एमडी (नेत्र रोग विज्ञान) (यह वर्ष 2014 में या उसके बाद श्री राम मूर्ति स्मारक आयुर्विज्ञान संस्थान, बरेली, उत्तर प्रदेश में प्रशिक्षित किए जा रहे छात्रों के संबंध में एमजेपी रोहिलखंड विश्वविद्यालय, बरेली, उत्तर प्रदेश द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी।)

[illegible]

2	3
“डाक्टर ऑफ मेडिसिन (माइक्रोबायोलॉजी)”	एमडी (माइक्रोबायोलॉजी) (यह वर्ष 2014 में या उसके बाद रोहिलखंड मेडिकल कॉलेज एवं अस्पताल, बरेली, उत्तर प्रदेश में प्रशिक्षित किये जा रहे छात्रों के संबंध में एमजेपी रोहिलखंड विश्वविद्यालय, बरेली, उत्तर प्रदेश द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी।)
“डाक्टर ऑफ मेडिसिन (फिजियोलॉजी)”	एमडी (फिजियोलॉजी) (यह वर्ष 2014 में या उसके बाद रोहिलखंड मेडिकल कॉलेज एवं अस्पताल, बरेली, उत्तर प्रदेश में प्रशिक्षित किये जा रहे छात्रों के संबंध में एमजेपी रोहिलखंड विश्वविद्यालय, बरेली, उत्तर प्रदेश द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी।)
“डाक्टर ऑफ मेडिसिन (फार्माकोलॉजी)”	एमडी (फार्माकोलॉजी) (यह वर्ष 2014 में या उसके बाद रोहिलखंड मेडिकल कॉलेज एवं अस्पताल, बरेली, उत्तर प्रदेश में प्रशिक्षित किये जा रहे छात्रों के संबंध में एमजेपी रोहिलखंड विश्वविद्यालय, बरेली, उत्तर प्रदेश द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी।)
“डाक्टर ऑफ मेडिसिन (जैव रसायन)”	एमडी (जैव रसायन) (यह वर्ष 2014 में या उसके बाद रोहिलखंड मेडिकल कॉलेज एवं अस्पताल, बरेली, उत्तर प्रदेश में प्रशिक्षित किये जा रहे छात्रों के संबंध में एमजेपी रोहिलखंड विश्वविद्यालय, बरेली, उत्तर प्रदेश द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी।)

(ख) “डीम्ड विश्वविद्यालय, उत्तर प्रदेश” के सामने ‘मान्यता प्राप्त चिकित्सा अर्हता’ [इसके बाद कालम (2) के रूप में संदर्भित] शीर्ष के अंतर्गत अंतिम प्रविष्टि तथा उससे सम्बन्धित प्रविष्टि के बाद पंजीकरण के लिये संक्षिप्त रूप’ [इसके बाद कालम (3) के रूप में संदर्भित] शीर्षक के तहत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात्:—

2	3
“डाक्टर ऑफ मेडिसिन (पेडियाट्रिक गेस्ट्रोएंटरोलॉजी)”	डीएम (पेडियाट्रिक गेस्ट्रोएंटरोलॉजी) (यह वर्ष 2014 में या उसके बाद संजय गांधी स्नातकोत्तर आयुर्विज्ञान संस्थान, लखनऊ में प्रशिक्षित किये जा रहे छात्रों के संबंध में डीम्ड विश्वविद्यालय, उत्तर प्रदेश द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी।)

(ग) “चौधरी चरण सिंह विश्वविद्यालय, मेरठ, उत्तर प्रदेश के सामने ‘मान्यता प्राप्त चिकित्सा अर्हता’ [इसके बाद कालम (2) के रूप में संदर्भित] शीर्ष के अंतर्गत अंतिम प्रविष्टि तथा उससे संबंधित प्रविष्टि के बाद ‘पंजीकरण के लिये संक्षिप्त रूप’ [इसके बाद कालम (3) के रूप में संदर्भित] शीर्षक के तहत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात्:—

1	2
“डाक्टर ऑफ मेडिसिन (एनार्थ्रोमी)”	एमडी (एनार्थ्रोमी) (यह वर्ष 2014 में या उसके बाद मुज्जफरनगर मेडिकल कॉलेज, मुज्जफरनगर, उत्तर प्रदेश में प्रशिक्षित किये जा रहे छात्रों के संबंध में चौधरी चरण सिंह विश्वविद्यालय, मेरठ, उत्तर प्रदेश द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी।)

(घ) “स्वामी विवेकानंद सुभारती विश्वविद्यालय, मेरठ, उत्तर प्रदेश” के सामने ‘मान्यता प्राप्त चिकित्सा अर्हता’ [इसके बाद कालम (2) के रूप में संदर्भित] शीर्ष के अंतर्गत अंतिम प्रविष्टि तथा उससे संबंधित प्रविष्टि के बाद पंजीकरण के लिये संक्षिप्त रूप’ [इसके बाद कालम (3) के रूप में संदर्भित] शीर्षक के तहत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात्:—

2	3
“डिप्लोमा इन एनेस्थीया”	डीए (यह वर्ष 2014 में या उसके बाद सुभारती मेडिकल कॉलेज, मेरठ, उत्तर प्रदेश में प्रशिक्षित किये जा रहे छात्रों के संबंध में स्वामी विवेकानंद सुभारती विश्वविद्यालय, मेरठ, उत्तर प्रदेश द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी।)

**सभी के लिये नोट:—** 1: किसी स्नातकोत्तर पाठ्यक्रम को इस प्रकार प्रदत्त मान्यता अधिकतम 05 वर्ष की अवधि के लिए होगी और उसके बाद उसका नवीकरण करना होगा।  
2: उपखंड -4 के यथापेक्षित समय पर मान्यता का नवीकरण नहीं करने पर संबंधित स्नातकोत्तर पाठ्यक्रम में दाखिला निरपवाद रूप से बंद हो जाएगा।

[सं० यू 12012/477/2015-एमई (पी-II)]

सुधीर कुमार, अवर सचिव

New Delhi, the 24th July, 2015

**S.O. 1645.**—In exercise of the powers conferred by sub-section (2) of the Section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the first Schedule to the said Act, namely:—

In the said Schedule:—

(a) against "MJP Rohilkhand University, Bareilly, UP" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

2	3
"Doctor of Medicine (Community Medicine)"	MD (Community Medicine) (This shall be a recognised medical qualification when granted by MJP Rohilkhand University, Bareilly, UP in respect of students being trained at Shri Ram Murti Smarak Institute of Medical Sciences, Bareilly, UP on or after 2014)
"Doctor of Medicine (General Medicine)"	MD (General Medicine) (This shall be a recognised medical qualification when granted by MJP Rohilkhand University, Bareilly, UP in respect of students being trained at Shri Ram Murti Smarak Institute of Medical Sciences, Bareilly, UP on or after 2014)
"Doctor of Medicine (Pharmacology)"	MD (Pharmacology) (This shall be a recognised medical qualification when granted by MJP Rohilkhand University, Bareilly, UP in respect of students being trained at Shri Ram Murti Smarak Institute of Medical Sciences, Bareilly, UP on or after 2014)
"Master of Surgery (Ophthalmology)"	MS (Ophthalmology) (This shall be a recognised medical qualification when granted by MJP Rohilkhand University, Bareilly, UP in respect of students being trained at Shri Ram Murti Smarak Institute of Medical Sciences, Bareilly, UP on or after 2014)
"Doctor of Medicine (Pathology)"	MD (Pathology) (This shall be a recognised medical qualification when granted by MJP Rohilkhand University, Bareilly, UP in respect of students being trained at Shri Ram Murti Smarak Institute of Medical Sciences, Bareilly, UP on or after 2014)
"Doctor of Medicine (Anaesthesia)"	MD (Anaesthesia) (This shall be a recognised medical qualification when granted by MJP Rohilkhand University, Bareilly, UP in respect of students being trained at Shri Ram Murti Smarak Institute of Medical Sciences, Bareilly, UP on or after 2014)



2	3
"Master of Surgery (General Surgery)"	MS (General Surgery) (This shall be a recognised medical qualification when granted by MJP Rohilkhand University, Bareilly, UP in respect of students being trained at Shri Ram Murti Smarak Institute of Medical Sciences, Bareilly, UP on or after 2014)
"Master of Surgery (Anatomy)"	MS (Anatomy) (This shall be a recognised medical qualification when granted by MJP Rohilkhand University, Bareilly, UP in respect of students being trained at Shri Ram Murti Smarak Institute of Medical Sciences, Bareilly, UP on or after 2014)
"Master of Surgery (Otorhinolaryngology)"	MS (ENT) (This shall be a recognised medical qualification when granted by MJP Rohilkhand University, Bareilly, UP in respect of students being trained at Shri Ram Murti Smarak Institute of Medical Sciences, Bareilly, UP on or after 2014)
"Master of Surgery (Orthopaedics)"	MS (Orthopaedics) (This shall be a recognised medical qualification when granted by MJP Rohilkhand University, Bareilly, UP in respect of students being trained at Shri Ram Murti Smarak Institute of Medical Sciences, Bareilly, UP on or after 2014)
"Doctor of Medicine/Master of Surgery (Obstetrics and Gynaecology)"	MD/MS (OBG) (This shall be a recognised medical qualification when granted by MJP Rohilkhand University, Bareilly, UP in respect of students being trained at Shri Ram Murti Smarak Institute of Medical Sciences, Bareilly, UP on or after 2014)
"Doctor of Medicine (Anatomy)"	MD (Anatomy) (This shall be a recognised medical qualification when granted by MJP Rohilkhand University, Bareilly, UP in respect of students being trained at Rohilkhand Medical College & Hospital, Bareilly, UP on or after 2014)
"Doctor of Medicine (Community Medicine)"	MD (Community Medicine) (This shall be a recognised medical qualification when granted by MJP Rohilkhand University, Bareilly, UP in respect of students being trained at Rohilkhand Medical College & Hospital, Bareilly, UP on or after 2014)
"Doctor of Medicine (Microbiology)"	MD (Microbiology) (This shall be a recognised medical qualification when granted by MJP Rohilkhand University, Bareilly, UP in respect of students being trained at Rohilkhand Medical College & Hospital, Bareilly, UP on or after 2014)
"Doctor of Medicine (Physiology)"	MD (Physiology) (This shall be a recognised medical qualification when granted by MJP Rohilkhand University, Bareilly, UP in respect of students being trained at Rohilkhand Medical College & Hospital, Bareilly, UP on or after 2014)
"Doctor of Medicine (Pharmacology)"	MD (Pharmacology) (This shall be a recognised medical qualification when granted by MJP Rohilkhand University, Bareilly, UP in respect of students being trained at Rohilkhand Medical College & Hospital, Bareilly, UP on or after 2014)
"Doctor of Medicine (Biochemistry)"	MD (Biochemistry) (This shall be a recognised medical qualification when granted by MJP Rohilkhand University, Bareilly, UP in respect of students being trained at Rohilkhand Medical College & Hospital, Bareilly, UP on or after 2014)

(b) against "Deemed University, Uttar Pradesh" under the heading "Recognised Medical Qualification" [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:-

2	3
"Doctor of Medicine (Paediatric Gastroenterology)"	DM(Paediatric Gastroenterology) (This shall be a recognised medical qualification when granted by Deemed University, Uttar Pradesh in respect of students being trained at Sanjay Gandhi Postgraduate Institute of Medical Sciences, Lucknow on or after 2014)

(c) against "Chaudhary Charan Singh University, Meerut, Uttar Pradesh" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

"Doctor of Medicine (Anatomy)"	MD (Anatomy) (This shall be a recognised medical qualification when granted by Chaudhary Charan Singh University, Meerut, Uttar Pradesh in respect of students being trained at Muzaffarnagar Medical College, Muzaffarnagar, U.P. on or after 2014)
--------------------------------	---

(d) against "Swami Vivekanand Subharti University, Meerut, Uttar Pradesh" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

"Diploma in Anesthesia"	DA (This shall be a recognised medical qualification when granted by Swami Vivekanand Subharti University, Meerut, Uttar Pradesh in respect of the students being trained at Subharti Medical College, Meerut, U.P. on or after 2014)
-------------------------	--

Note to all: 1. The recognition so granted to a Postgraduate Course shall be for a maximum period of 5 years, upon which it shall have to be renewed.

2. Failure to seek timely renewal of recognition as required in sub-clause-4 shall invariably result in stoppage of admissions to the concerned Postgraduate Course.

[No. U. 12012/477/2015-ME(P-II)]

SUDHIR KUMAR, Under Secy.

नई दिल्ली, 27 जुलाई, 2015

**का.आ. 1646.**—भारतीय चिकित्सा परिषद अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार, भारतीय चिकित्सा परिषद से परामर्श करने के पश्चात्, एतद्वारा उक्त अधिनियम की प्रथम अनुसूची में और निम्नलिखित संशोधन करती है, अर्थात् :

उक्त अनुसूची में—

(क) 'गुरु गोविंद सिंह इंद्रप्रस्थ विश्वविद्यालय, नई दिल्ली' के सामने 'मान्यताप्राप्त चिकित्सा अर्हता' [आगे कॉलम (2) के तौर पर उल्लिखित] शीर्ष के अंतर्गत, अंतिम प्रविष्टि के बाद और 'पंजीकरण के लिए संक्षिप्त रूप' [आगे कॉलम (3) के तौर पर उल्लिखित] शीर्षक के अंतर्गत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात् :—

2	3
डॉक्टर ऑफ मेडिसिन (पल्मोनरी एंड क्रिटिकल केयर मेडिसिन)	डीएम (पल्मोनरी एंड क्रिटिकल केयर मेडिसिन) (यह 2014 में अथवा उसके बाद वर्धमान महावीर मेडिकल कालेज और स्नातकोत्तर संस्थान सफदरजंग अस्पताल, नई दिल्ली में प्रशिक्षित किए जा रहे छात्रों के संबंध में गुरु गोविंद सिंह इंद्रप्रस्थ विश्वविद्यालय, नई दिल्ली द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)
डॉक्टर ऑफ मेडिसिन/मास्टर ऑफ सर्जरी (ओब्स्टेट्रिक्स एंड गायनोकोलोजी)	एमडी/एमएस (ओबीजी) (यह 2014 में अथवा उसके बाद ईएसआई-पीजीआईएमएसआर, ईएसआई अस्पताल, बसई दारापुर, नई दिल्ली में प्रशिक्षित किए जा रहे छात्रों के संबंध में गुरु गोविंद सिंह इंद्रप्रस्थ विश्वविद्यालय, दिल्ली द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)

1	2
डॉक्टर ऑफ मेडिसिन (एनेस्थीसियोलोजी)	एमडी (एनेस्थीसियोलोजी) (यह 2014 में अथवा उसके बाद ईएमआई-पीजीआईएमएसआर, ईएसआई अस्पताल, बसई दारापुद, नई दिल्ली में प्रशिक्षित किए जा रहे छात्रों के संबंध में गुरु गोविंद सिंह इंद्रप्रस्थ विश्वविद्यालय, नई दिल्ली द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा होगी।)

(ख) 'पं० बी०डी० शर्मा स्वास्थ्य विज्ञान विश्वविद्यालय, रोहतक, हरियाणा' के सामने 'मान्यताप्राप्त चिकित्सा अर्हता' [आगे कॉलम (2) के तौर पर उल्लिखित] शीर्ष के अंतर्गत, अंतिम प्रविष्टि के बाद और 'पंजीकरण के लिए संक्षिप्त रूप' [आगे कॉलम (3) के तौर पर उल्लिखित] शीर्षक के अंतर्गत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात् :—

2	3
डॉक्टर ऑफ मेडिसिन (जनरल मेडिसिन)	एमडी (जनरल मेडिसिन) (यह 2013 में अथवा उसके बाद कमांड अस्पताल, चंडीमंदिर में प्रशिक्षित किए जा रहे छात्रों के संबंध में पं०बी०डी० शर्मा स्वास्थ्य विज्ञान विश्वविद्यालय, रोहतक, हरियाणा द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त अर्हता होगी)।
डॉक्टर ऑफ मेडिसिन (पल्मोनरी मेडिसिन)	डीएम (पल्मोनरी मेडिसिन) (यह 2014 में अथवा उसके बाद पं०बी०डी० शर्मा स्नातकोत्तर संस्थान, रोहतक में प्रशिक्षित किए जा रहे छात्रों के संबंध में पं० बी० डी० शर्मा स्वास्थ्य विज्ञान विश्वविद्यालय, रोहतक, हरियाणा द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी)।

(ग) 'गीतांजली विश्वविद्यालय, उदयपुर, राजस्थान' के सामने 'मान्यताप्राप्त चिकित्सा अर्हता' [आगे कॉलम (2) के तौर पर उल्लिखित] शीर्ष के अंतर्गत, अंतिम प्रविष्टि के बाद और 'पंजीकरण के लिए संक्षिप्त रूप' [आगे कॉलम (3) के तौर पर उल्लिखित] शीर्षक के अंतर्गत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात् :—

2	3
डिप्लोमा इन क्लीनिकल पैथोलॉजी	डीसीपी (यह 2014 में अथवा उसके बाद गीतांजली मेडिकल कॉलेज और अस्पताल, उदयपुर में प्रशिक्षित किए जा रहे छात्रों के संबंध में गीतांजली विश्वविद्यालय, उदयपुर, राजस्थान द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी)।

(घ) 'राजस्थान स्वास्थ्य विज्ञान विश्वविद्यालय, जयपुर' के सामने 'मान्यताप्राप्त चिकित्सा अर्हता' [आगे कॉलम (2) के तौर पर उल्लिखित] शीर्ष के अंतर्गत, अंतिम प्रविष्टि के बाद और 'पंजीकरण के लिए संक्षिप्त रूप', [आगे कॉलम (3) के तौर पर उल्लिखित] शीर्षक के अंतर्गत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात् :—

2	3
डॉक्टर ऑफ मेडिसिन (साइकेट्री)	एमडी (साइकेट्री) (यह 2013 में अथवा उसके बाद आर०एन०टी० मेडिकल कॉलेज, उदयपुर में प्रशिक्षित किए जा रहे छात्रों के संबंध में राजस्थान स्वास्थ्य विज्ञान विश्वविद्यालय, जयपुर द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी)
डॉक्टर ऑफ मेडिसिन (न्यूरोलोजी)	डीएम (न्यूरोलोजी) (यह 2014 में अथवा उसके बाद डॉ० एस०एन० मेडिकल कॉलेज, जोधपुर में प्रशिक्षित किए जा रहे छात्रों के संबंध में राजस्थान स्वास्थ्य विज्ञान विश्वविद्यालय, जयपुर द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी)

2	3
डॉक्टर ऑफ मेडिसिन (फोरेंसिक मेडिसिन)	एमडी (फोरेंसिक मेडिसिन) ( यह 2013 में अथवा उसके बाद डॉ॰ एस॰एन॰ मेडिकल कॉलेज, जोधपुर में प्रशिक्षित किए जा रहे छात्रों के संबंध में राजस्थान स्वास्थ्य विज्ञान विश्वविद्यालय, जयपुर द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी )
(ड.) 'एनआईएमएस विश्वविद्यालय (डीमड विश्वविद्यालय), जयपुर, राजस्थान' के सामने 'मान्यताप्राप्त चिकित्सा अर्हता [आगे कॉलम (2) के तौर पर उल्लिखित] शीर्ष के अंतर्गत, अंतिम प्रविष्टि के बाद और 'पंजीकरण के लिए संक्षिप्त रूप' [आगे कॉलम (3) के तौर पर उल्लिखित] शीर्षक के अंतर्गत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात् :—	
2	3
डॉक्टर ऑफ मेडिसिन (ट्यूबरकुलोसिस और रेस्पीरेटरी डिजिज़/पल्मोनरी मेडिसिन)	एमडी (ट्यूबरकुलोसिस और रेस्पीरेटरी डिजिज़/पल्मोनरी मेडिसिन) ( यह 2014 में अथवा उसके बाद राष्ट्रीय आयुर्विज्ञान और अनुसंधान संस्थान, जयपुर में प्रशिक्षित किए जा रहे छात्रों के संबंध में एनआईएमएस विश्वविद्यालय (डीमड विश्वविद्यालय), जयपुर, राजस्थान द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी )

सभी के लिए टिप्पणी: 1. स्नातकोत्तर पाठ्यक्रम के लिए स्वीकृत मान्यता 5 वर्ष की अधिकतम अवधि के लिए होगी जिसके बाद इसका नवीकरण किया जाएगा।

2. उप-धारा 4 के अपेक्षित अनुसार मान्यता को समय पर नवीकरण नहीं कराने के फलस्वरूप संबंधित स्नातकोत्तर पाठ्यक्रम में निरपवाद रूप से दाखिला बन्द हो जाएगा।

[सं॰ यू॰-12012/473/2015-एमई (पी-II)]

सुधीर कुमार, अवर सचिव

New Delhi, the 27th July, 2015

**S.O. 1646.**—In exercise of the powers conferred by sub-section(2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:—

In the said Schedule:—

(a) against "Guru Gobind Singh Indraprastha University, New Delhi" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

2	3
"Doctor of Medicine (Pulmonary & Critical Care Medicine)"	DM (Pulmonary & Critical Care Medicine) (This shall be a recognised Medical qualification when granted by Guru Gobind Singh Indraprastha University, New Delhi in respect of students being trained at Vardhman Mahavir Medical College & Postgraduate Institute Safdarjung Hospital, New Delhi on or after 2014)
"Doctor of Medicine/Master of Surgery (Obstetrics & Gynecology)"	MD/MS (OBG) (This shall be a recognised Medical qualification when granted by Guru Gobind Singh Indraprastha University, New Delhi in respect of students being trained at ESI-PGIMS, ESI Hospital, Basaidarapur, New Delhi on or after 2014)
"Doctor of Medicine (Anesthesiology)"	MD (Anesthesiology) (This shall be a recognised Medical qualification when granted by Guru Gobind Singh Indraprastha University, New Delhi in respect of students being trained at ESI-PGIMS, ESI Hospital, Basaidarapur, New Delhi on or after 2014)

(b) against "Pt. B.D. Sharma University of Health Sciences, Rohtak, Haryana" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)] after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

2	3
"Doctor of Medicine (General Medicine)"	MD (General Medicine) (This shall be a recognised Medical qualification when granted by Pt. B.D. Sharma University of Health Sciences, Rohtak, Haryana in respect of students being trained at Command Hospital, Chandimandir on or after 2013)
"Doctor of Medicine (Pulmonary Medicine)"	DM(Pulmonary Medicine) (This shall be a recognised Medical qualification when granted by Pt. B.D. Sharma University of Health Sciences, Rohtak, Haryana in respect of Students being trained at Pt. B. D. Sharma Postgraduate Institute of Medical Sciences, Rohtak on or after 2014)

(c) against "Geetanjali Univerisity, Udaipur, Rajasthan" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

2	3
"Diploma in clinical Pathology"	DCP (This shall be a recognised Medical qualification when granted by Geetanjali University, Udaipur, Rajasthan in respect of the students being trained at Geetanjali Medical College & Hospital, Udaipur on or after 2014)

(d) against "Rajasthan University of Health Sciences, Jaipur" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

2	3
"Doctor of Medicine (Psychiatry)"	MD (Psychiatry) (This shall be a recognised Medical qualification when granted by Rajasthan University of Health Sciences, Jaipur in respect of the students being trained at R.N.T. Medical College, Udaipur on or after 2013)
"Doctor of Medicine (Neurology)"	DM (Neurology) (This shall be a recognised Medical qualification when granted by Rajasthan University of Health Sciences, Jaipur in respect of the students being trained at Dr. S.N. Medical College, Jodhpur on or after 2014)
"Doctor of Medicine (Forensic Medicine)"	MD (Forensic Medicine) (This shall be a recognised Medical qualification when granted by Rajasthan University of Health Sciences, Jaipur in respect of students being trained at Dr. S. N. Medical College, Jodhpur on or after 2013)

(e) against "NIMS University (Deemed University), Jaipur Rajasthan" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)] after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

2	3
"Doctor of Medicine (Tuberculosis & Respiratory Disease/Pulmonary Medicine)"	MD (Tuberculosis & Respiratory Disease/Pulmonary Medicine) (This shall be a recognised Medical qualification when granted by NIMS University (Deemed Unversity), Jaipur, Rajasthan in respect of the students being trained at National Institute of Medical Science & Research, Jaipur on or after 2014)



Note to all: 1. The recognition so granted to a Postgraduate Course shall be for a maximum period of 5 years, upon which it shall have to be renewed.

2. Failure to seek timely renewal of recognition as required in sub-clause-4 shall invariably result in stoppage of admissions to the concerned Postgraduate Course.

[No. U. 12012/473/2015-ME(P-II)]

SUDHIR KUMAR, Under Secy.

नई दिल्ली, 27 जुलाई, 2015

**का.आ. 1647.**—भारतीय चिकित्सा परिषद अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय चिकित्सा परिषद से परामर्श करने के पश्चात्, एतद्द्वारा उक्त अधिनियम की प्रथम अनुसूची में और निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अनुसूची में—

(क) 'कुमाऊं विश्वविद्यालय, नैनीताल, उत्तराखंड' के सामने मान्यता प्राप्त चिकित्सा अर्हता' [आगे कॉलम (2) के तौर पर उल्लिखित] शीर्ष के अंतर्गत, अंतिम प्रविष्टि के बाद और 'पंजीकरण के लिए संक्षिप्त रूप' [आगे कॉलम (3) के तौर पर उल्लिखित] शीर्षक के अंतर्गत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात् :—

2	3
डॉक्टर ऑफ मेडिसिन (सामुदायिक मेडिसिन)	एमडी (सामुदायिक मेडिसिन) (यह 2014 में अथवा उसके बाद राजकीय मेडिकल कॉलेज (पूर्व में उत्तराखंड वन अस्पताल ट्रस्ट मेडिकल कॉलेज), हल्दवानी, उत्तराखंड में प्रशिक्षित किए जा रहे छात्रों के संबंध में कुमाऊं विश्वविद्यालय, नैनीताल, उत्तराखंड द्वारा स्वीकृत किए जाने पर मान्यता प्राप्त चिकित्सा अर्हता होगी।)
डॉक्टर ऑफ मेडिसिन (पैथोलॉजी)	एमडी (पैथोलॉजी) (यह 2014 में अथवा उसके बाद राजकीय मेडिकल कॉलेज (पूर्व में उत्तराखंड वन अस्पताल ट्रस्ट मेडिकल कॉलेज), हल्दवानी, उत्तराखंड में प्रशिक्षित किए जा रहे छात्रों के संबंध में कुमाऊं विश्वविद्यालय, नैनीताल, उत्तराखंड द्वारा स्वीकृत किए जाने पर मान्यता प्राप्त चिकित्सा अर्हता होगी।)
डॉक्टर ऑफ मेडिसिन (एनाटोमी)	एमडी (एनाटोमी) (यह 2014 में अथवा उसके बाद राजकीय मेडिकल कॉलेज (पूर्व में उत्तराखंड वन अस्पताल ट्रस्ट मेडिकल कॉलेज), हल्दवानी, उत्तराखंड में प्रशिक्षित किए जा रहे छात्रों के संबंध में कुमाऊं विश्वविद्यालय, नैनीताल, उत्तराखंड द्वारा स्वीकृत किए जाने पर मान्यता प्राप्त चिकित्सा अर्हता होगी।)

(ख) 'एच०एन०बी० गढ़वाल विश्वविद्यालय, उत्तराखंड' के सामने मान्यता प्राप्त चिकित्सा अर्हता' [आगे कॉलम (2) के तौर पर उल्लिखित] शीर्ष के अंतर्गत, अंतिम प्रविष्टि के बाद और 'पंजीकरण के लिए संक्षिप्त रूप' [आगे कॉलम (3) के तौर पर उल्लिखित] शीर्षक के अंतर्गत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात् :—

डॉक्टर ऑफ मेडिसिन (फिजियोलॉजी)	एमडी (फिजियोलॉजी)  (यह 2014 में अथवा उसके बाद श्री गुरु राम राय आयुर्विज्ञान एवं स्वास्थ्य विज्ञान संस्थान, देहरादून में प्रशिक्षित किये जा रहे छात्रों के संबंध में एच०एन०बी० गढ़वाल विश्वविद्यालय, उत्तराखंड द्वारा स्वीकृत किए जाने पर मान्यता प्राप्त चिकित्सा अर्हता होगी।)
--------------------------------	--

1	2
डॉक्टर ऑफ मेडिसिन (माइक्रोबायोलॉजी)	एमडी (माइक्रोबायोलॉजी) (यह 2014 में अथवा उसके बाद श्री गुरु राम राय आयुर्विज्ञान एवं स्वास्थ्य विज्ञान संस्थान, देहरादून में प्रशिक्षित किये जा रहे छात्रों के संबंध में एचएनबी गढ़वाल विश्वविद्यालय, उत्तराखंड द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)
डॉक्टर ऑफ मेडिसिन (सामुदायिक मेडिसिन)	एमडी (सामुदायिक मेडिसिन) (यह 2014 में अथवा उसके बाद श्री गुरु राम राय आयुर्विज्ञान एवं स्वास्थ्य विज्ञान संस्थान, देहरादून में प्रशिक्षित किये जा रहे छात्रों के संबंध में एचएनबी गढ़वाल विश्वविद्यालय, उत्तराखंड द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)
डॉक्टर ऑफ मेडिसिन (पैथोलॉजी)	एमडी (पैथोलॉजी) (यह 2014 में अथवा उसके बाद श्री गुरु राम राय आयुर्विज्ञान एवं स्वास्थ्य विज्ञान संस्थान, देहरादून में प्रशिक्षित किये जा रहे छात्रों के संबंध में एचएनबी गढ़वाल विश्वविद्यालय, उत्तराखंड द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)
डॉक्टर ऑफ मेडिकसिन (एनाटोमी)	एमडी (एनाटोमी) (यह 2014 में अथवा उसके बाद श्री गुरु राम राय आयुर्विज्ञान एवं स्वास्थ्य विज्ञान संस्थान, देहरादून में प्रशिक्षित किये जा रहे छात्रों के संबंध में एचएनबी गढ़वाल विश्वविद्यालय, उत्तराखंड द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)

(ग) 'हिमाचल प्रदेश विश्वविद्यालय, शिमला, हिमाचल प्रदेश' के सामने 'मान्यताप्राप्त चिकित्सा अर्हता' [आगे कॉलम (2) के तौर पर उल्लिखित] शीर्ष के अंतर्गत, अंतिम प्रविष्टि के बाद और 'पंजीकरण के लिए संक्षिप्त रूप' आगे कॉलम (3) के तौर पर उल्लिखित, शीर्षक के अंतर्गत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात् :—

2	3
डॉक्टर ऑफ मेडिसिन (बाल रोग)	एमडी (बाल रोग) (यह 2014 में अथवा उसके बाद श्री डॉ॰ राजेन्द्र प्रसाद राजकीय मेडिकल कॉलेज, टांडा, हिमाचल प्रदेश में प्रशिक्षित किये जा रहे छात्रों के संबंध में हिमाचल प्रदेश विश्वविद्यालय, शिमला, हिमाचल प्रदेश द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)
मास्टर ऑफ सर्जरी (सामान्य सर्जरी)	एमएस (सामान्य सर्जरी) (यह 2014 में अथवा उसके बाद डॉ॰ राजेन्द्र प्रसाद राजकीय मेडिकल कॉलेज, टांडा, हिमाचल प्रदेश में प्रशिक्षित किये जा रहे छात्रों के संबंध में हिमाचल प्रदेश विश्वविद्यालय, शिमला, हिमाचल प्रदेश द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)
डॉक्टर ऑफ सर्जरी (अस्थि रोग)	एमडी (आर्थो) (यह 2014 में अथवा उसके बाद डॉ॰ राजेन्द्र प्रसाद राजकीय मेडिकल कॉलेज, टांडा, हिमाचल प्रदेश में प्रशिक्षित किये जा रहे छात्रों के संबंध में हिमाचल प्रदेश विश्वविद्यालय, शिमला, हिमाचल प्रदेश द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)

1	2
डॉक्टर ऑफ मेडिसिन (माइक्रोबायोलॉजी)	एमडी (माइक्रोबायोलॉजी) (यह 2014 में अथवा उसके बाद डॉ॰ राजेन्द्र प्रसाद राजकीय मेडिकल कॉलेज, टांडा, हिमाचल प्रदेश में प्रशिक्षित किये जा रहे छात्रों के संबंध में हिमाचल प्रदेश विश्वविद्यालय, शिमला, हिमाचल प्रदेश द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)
मास्टर ऑफ सर्जरी (ओटो-राइनो-लैरिंगोलॉजी)	एमएस (ईएनटी) (यह 2014 में अथवा उसके बाद डॉ॰ राजेन्द्र प्रसाद राजकीय मेडिकल कॉलेज, टांडा, हिमाचल प्रदेश में प्रशिक्षित किये जा रहे छात्रों के संबंध में हिमाचल प्रदेश विश्वविद्यालय, शिमला, हिमाचल प्रदेश द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)
डॉक्टर ऑफ मेडिसिन (एसपीएम/सामुदायिक मेडिसिन)	एमडी (एसपीएम/सामुदायिक मेडिसिन) (यह 2014 में अथवा उसके बाद डॉ॰ राजेन्द्र प्रसाद राजकीय मेडिकल कॉलेज, टांडा, हिमाचल प्रदेश में प्रशिक्षित किये जा रहे छात्रों के संबंध में हिमाचल प्रदेश विश्वविद्यालय, शिमला, हिमाचल प्रदेश द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)
डॉक्टर ऑफ मेडिसिन (कार्डियोलॉजी)	डीएम (कार्डियोलॉजी) (यह 2014 में अथवा उसके बाद इन्दिरा गांधी मेडिकल कॉलेज, शिमला, हिमाचल प्रदेश में प्रशिक्षित किये जा रहे छात्रों के संबंध में हिमाचल प्रदेश विश्वविद्यालय, शिमला, हिमाचल प्रदेश द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)
डॉक्टर ऑफ मेडिसिन (मनश्चिकित्सा)	डीएम (मनश्चिकित्सा) (यह 2014 में अथवा उसके बाद इन्दिरा गांधी मेडिकल कॉलेज, शिमला, हिमाचल प्रदेश में प्रशिक्षित किये जा रहे छात्रों के संबंध में हिमाचल प्रदेश विश्वविद्यालय, शिमला, हिमाचल प्रदेश द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)
मॉस्टर ऑफ चिरुर्जी (कार्डियोथोरेसिक एवं वैस्कुलर सर्जरी)	एमसीएच (सीटीवीएस) (यह 2014 में अथवा उसके बाद इन्दिरा गांधी मेडिकल कॉलेज, शिमला, हिमाचल प्रदेश में प्रशिक्षित किये जा रहे छात्रों के संबंध में हिमाचल प्रदेश विश्वविद्यालय, शिमला, हिमाचल प्रदेश द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)

**सभी के लिए नोट:**

1. किसी स्नातकोत्तर पाठ्यक्रम को इस प्रकार प्रदत्त मान्यता अधिकतम 5 वर्ष की अवधि के लिए होगी और उसके बाद उसका नवीकरण करना होगा।
2. उप-खंड-4 में यथापेक्षित समय पर मान्यता का नवीकरण न होने पर संबंधित स्नातकोत्तर पाठ्यक्रम में दाखिला रुक जाएगा।

[सं॰ यू-12012/476/2015-एमई (पी-II)]

सुधीर कुमार, अवर सचिव

New Delhi, the 27th July, 2015

**S.O. 1647.**—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:—

In the said Schedule—

(a) against "Kumaon University, Nainital, Uttarakhand" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

2	3
"Doctor of Medicine (Community Medicine)"	MD (Community Medicine) (This shall be a recognised medical qualification when granted by Kumaon University, Nainital, Uttarakhand in respect of students being trained at Government Medical College (Previously Uttarakhand Forest Hospital Trust Medical College), Haldwani, Uttarakhand on or after 2014)
"Doctor of Medicine (Pathology)"	MD (Pathology) (This shall be a recognised medical qualification when granted by Kumaon University, Nainital, Uttarakhand in respect of students being trained at Government Medical College (Previously Uttarakhand Forest Hospital Trust Medical College), Haldwani, Uttarakhand on or after 2014)
"Doctor of Medicine (Anatomy)"	MD (Anatomy) (This shall be a recognised medical qualification when granted by Kumaon University, Nainital, Uttarakhand in respect of students being trained at Government Medical College (Previously Uttarakhand Forest Hospital Trust Medical College), Haldwani, Uttarakhand on or after 2014)

(b) against "H.N.B Garhwal University, Uttarakhand" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

2	3
"Doctor of Medicine (Physiology)"	MD (Physiology) (This shall be a recognised medical qualification when granted by H.N.B. Garhwal University, Uttarakhand in respect of students being trained at Shri Guru Ram Rai Institute Medical & Health Sciences, Dehradun on or after 2014)
"Doctor of Medicine (Microbiology)"	MD (Microbiology) (This shall be a recognised medical qualification when granted by H.N.B. Garhwal University, Uttarakhand in respect of students being trained at Shri Guru Ram Rai Institute of Medical & Health Sciences, Dehradun on or after 2014)
"Doctor of Medicine (Community Medicine)"	MD (Community Medicine) (This shall be a recognised medical qualification when granted by H.N.B. Garhwal University, Uttarakhand in respect of students being trained at Shri Guru Ram Rai Institute of Medical & Health Sciences, Dehradun on or after 2014)
"Doctor of Medicine (Pathology)"	MD (Pathology) (This shall be a recognised medical qualification when granted by H.N.B. Garhwal University, Uttarakhand in respect of students being trained at Shri Guru Ram Rai Institute of Medical & Health Sciences, Dehradun on or after 2014)
"Doctor of Medicine (Anatomy)"	MD (Anatomy) (This shall be a recognised medical qualification when granted by H.N.B. Garhwal University, Uttarakhand in respect of students being trained at Shri Guru Ram Rai Institute of Medical & Health Sciences, Dehradun on or after 2014)

(c) against "Himachal Pradesh University, Shimla, Himachal Pradesh" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

1	2
"Doctor of Medicine (Paediatrics)"	MD (Paediatrics) (This shall be a recognised medical qualification when granted by Himachal Pradesh University, Shimla, Himachal Pradesh in respect of the students being trained at Dr. Rajendra Prasad Government Medical College, Tanda, H.P. on or after 2014)
"Master of Surgery (General Surgery)"	MS (General Surgery) (This shall be a recognised medical qualification when granted by Himachal Pradesh University, Shimla, Himachal Pradesh in respect of students being trained at Dr. Rajendra Prasad Government Medical College, Tanda, H.P. on or after 2014)
"Master of Surgery (Orthopaedics)"	MS (Orthopaedics) (This shall be a recognised medical qualification when granted by Himachal Pradesh University, Shimla, Himachal Pradesh in respect of students being trained at Dr. Rajendra Prasad Government Medical College, Tanda, H.P. on or after 2014)
"Doctor of Medicine (Microbiology)"	MD (Microbiology) (This shall be a recognised medical qualification when granted by Himachal Pradesh University, Shimla, Himachal Pradesh in respect of students being trained at Dr. Rajendra Prasad Government Medical College, Tanda, H.P. on or after 2014)
"Master of Surgery (Oto-Rhino-Laryngology)"	MS (ENT) This shall be a recognised medical qualification when granted by Himachal Pradesh University, Shimla, Himachal Pradesh in respect of students being trained at Dr. Rajendra Prasad Government Medical College, Tanda, H.P. on or after 2014)
"Doctor of Medicine (SPM/Community Medicine)"	MD (SPM/Community Medicine) (This shall be a recognised medical qualification when granted by Himachal Pradesh University, Shimla, Himachal Pradesh in respect of the students being trained at Dr. Rajendra Prasad Government Medical College, Tanda, H.P. on or after 2014)
"Doctor of Medicine (Cardiology)"	DM (Cardiology) (This shall be a recognised medical qualification when granted by Himachal Pradesh University, Shimla, Himachal Pradesh in respect of students being trained at Dr. Rajendra Prasad Government Medical College, Tanda, H.P. on or after 2014)
"Doctor of Medicine (Psychiatry)"	MD (Psychiatry) (This shall be a recognised medical qualification when granted by Himachal Pradesh University, Shimla, Himachal Pradesh in respect of students being trained at Indira Gandhi Medical College, Shimla, H.P. on or after 2014)
"Master of Chirurgie (Cardio Thoracic and Vascular Surgery)"	M.Ch (CTVS) (This shall be a recognised medical qualification when granted by Himachal Pradesh University, Shimla, Himachal Pradesh in respect of the students being trained at Indira Gandhi Medical College, Shimla, H.P. on or after 2014)

**Note to all:**

1. The recognition so granted to a Postgraduate Course shall be for a maximum period of 5 years, upon which it shall have to be renewed.
2. Failure to seek timely renewal of recognition as required in sub-clause-4 shall invariably result in stoppage of admissions to the concerned Postgraduate Course.

[No. U. 12012/476/2015-ME(P-II)]

SUDHIR KUMAR, Under Secy.



नई दिल्ली, 27 जुलाई, 2015

**का.आ. 1648.**—भारतीय चिकित्सा परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा शक्तियों का प्रयोग करते हुए केंद्र सरकार, भारतीय चिकित्सा परिषद् से परामर्श करने के पश्चात् एतद् द्वारा उक्त अधिनियम की प्रथम अनुसूची में निम्नलिखित और संशोधन करती है, अर्थात्:—

उक्त अनुसूची में:—

(क) “उत्कल विश्वविद्यालय, भुवनेश्वर, ओडिशा” के सामने ‘मान्यता प्राप्त चिकित्सा अर्हता’ [इसके बाद कालम (2) के रूप में सन्दर्भित] शीर्ष के अंतर्गत अंतिम प्रविष्टि तथा उसे सम्बंधित प्रविष्टि के बाद ‘पंजीकरण के लिये संक्षिप्त रूप’ [इसके बाद कालम (3) के रूप में संदर्भित] शीर्षक के तहत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात्:—

2	3
“डॉक्टर ऑफ मेडिसिन/ मास्टर ऑफ सर्जरी (एनाटॉमी)”	एमडी/एम एस (एनाटॉमी) (यह वर्ष 2014 में या उसके बाद हाई टेक मेडिकल कॉलेज एंड हॉस्पिटल, भुवनेश्वर में प्रशिक्षित किये जा रहे छात्रों के संबंध में डॉ॰ उत्कल विश्वविद्यालय, भुवनेश्वर, ओडिशा द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी।)
“डॉक्टर ऑफ मेडिसिन” (फार्माकोलॉजी)	एमडी (फार्माकोलॉजी) (यह वर्ष 2014 में या उसके बाद हाई टेक मेडिकल कॉलेज एंड हॉस्पिटल, भुवनेश्वर में प्रशिक्षित किये जा रहे छात्रों के संबंध में डॉ॰ उत्कल विश्वविद्यालय, भुवनेश्वर, ओडिशा द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी।)
“डॉक्टर ऑफ मेडिसिन (जैव रसायन)”	एमडी (जैव रसायन) (यह वर्ष 2014 में या उसके बाद हाई टेक मेडिकल कॉलेज एंड हॉस्पिटल, भुवनेश्वर में प्रशिक्षित किये जा रहे छात्रों के संबंध में डॉ॰ उत्कल विश्वविद्यालय, भुवनेश्वर, ओडिशा द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी।)

(ख) “शिक्षा और अनुसंधान विश्वविद्यालय, भुवनेश्वर, ओडिशा” के सामने ‘मान्यता प्राप्त चिकित्सा अर्हता’ [इसके बाद कालम (2) के रूप में सन्दर्भित] शीर्ष के अंतर्गत अंतिम प्रविष्टि तथा इससे सम्बंधित प्रविष्टि के बाद ‘पंजीकरण के लिये संक्षिप्त रूप’ [इसके बाद कालम (3) के रूप में संदर्भित] शीर्षक के तहत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात्:—

2	3
“डॉक्टर ऑफ मेडिसिन (फार्माकोलॉजी)”	एमडी (फार्माकोलॉजी) (यह वर्ष 2014 में या उसके बाद आयुर्विज्ञान संस्थान एवं एसयुएम अस्पताल, भुवनेश्वर में प्रशिक्षित किये जा रहे छात्रों के संबंध में शिक्षा और अनुसंधान विश्वविद्यालय, भुवनेश्वर, ओडिशा द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी।)
“डॉक्टर ऑफ मेडिसिन (माइक्रोबायोलॉजी)”	एमडी (माइक्रोबायोलॉजी) (यह वर्ष 2014 में या उसके बाद आयुर्विज्ञान संस्थान एवं एसयुएम अस्पताल, भुवनेश्वर में प्रशिक्षित किये जा रहे छात्रों के संबंध में शिक्षा और अनुसंधान विश्वविद्यालय, भुवनेश्वर, ओडिशा द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी।)
“डॉक्टर ऑफ मेडिसिन (पैथोलॉजी)”	एमडी (पैथोलॉजी) (यह वर्ष 2014 में या उसके बाद आयुर्विज्ञान संस्थान एवं एसयुएम अस्पताल, भुवनेश्वर में प्रशिक्षित किये जा रहे छात्रों के संबंध में शिक्षा और अनुसंधान विश्वविद्यालय, भुवनेश्वर, ओडिशा द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी।)
“डॉक्टर ऑफ मेडिसिन (जैव रसायन)”	एमडी (जैव रसायन) (यह वर्ष 2014 में या उसके बाद आयुर्विज्ञान संस्थान एवं एसयुएम अस्पताल, भुवनेश्वर में प्रशिक्षित किये जा रहे छात्रों के संबंध में शिक्षा और अनुसंधान विश्वविद्यालय, भुवनेश्वर, ओडिशा द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी।)

2	3
“डॉक्टर ऑफ मेडिसिन (फिजियोलॉजी)”	एमडी (फिजियोलॉजी) (यह वर्ष 2014 में या उसके बाद आयुर्विज्ञान संस्थान एवं एसयुएम अस्पताल, भुवनेश्वर में प्रशिक्षित किये जा रहे छात्रों के संबंध में शिक्षा और अनुसंधान विश्वविद्यालय, भुवनेश्वर, ओडिशा द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी)।
(ग) “पश्चिम बंगाल स्वास्थ्य विज्ञान विश्वविद्यालय, कोलकाता, पश्चिम बंगाल” के सामने ‘मान्यता प्राप्त चिकित्सा अर्हता’ [इसके बाद कालम (2) के रूप में सन्दर्भित] शीर्ष के अंतर्गत अंतिम प्रविष्टि तथा उससे सम्बंधित प्रविष्टि के बाद ‘पंजीकरण के लिये संक्षिप्त रूप’ [इसके बाद कालम (3) के रूप में संदर्भित] शीर्षक के तहत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात्:—	
1	2
“डॉक्टर ऑफ मेडिसिन (फार्माकोलॉजी)”	एमडी (फार्माकोलॉजी) (यह वर्ष 2014 में या उसके बाद स्कूल ऑफ ट्रोपिकल मेडिसिन, कोलकाता, पश्चिम बंगाल में प्रशिक्षित किये जा रहे छात्रों के संबंध में पश्चिम बंगाल स्वास्थ्य विज्ञान विश्वविद्यालय, कोलकाता, पश्चिम बंगाल द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी)।
“डॉक्टर ऑफ मेडिसिन (कार्डियक एनेस्थीसियोलॉजी)”	डीएम (कार्डियक एनेस्थीसियोलॉजी) (यह वर्ष 2014 में या उसके बाद स्नातकोत्तर चिकित्सा शिक्षा एवं अनुसंधान संस्थान, कोलकाता, पश्चिम बंगाल में प्रशिक्षित किये जा रहे छात्रों के संबंध में पश्चिम बंगाल स्वास्थ्य विज्ञान विश्वविद्यालय, कोलकाता, पश्चिम बंगाल द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी)।
“मास्टर ऑफ चिरूरुगई (युरोलॉजी/जेनिटो-युरीनरी सर्जरी)”	एमसीएच (युरोलॉजी/जेनिटो-युरीनरी सर्जरी) (यह वर्ष 2014 में या उसके बाद नीलरतन सरकार मेडिकल कॉलेज, कोलकाता, पश्चिम बंगाल में प्रशिक्षित किये जा रहे छात्रों के संबंध में पश्चिम बंगाल स्वास्थ्य विज्ञान विश्वविद्यालय, कोलकाता, पश्चिम बंगाल द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी)।
“मास्टर ऑफ चिरूरुगई (न्यूरो सर्जरी)”	एमसीएच (न्यूरो सर्जरी) (यह वर्ष 2014 में या उसके बाद नीलरतन सरकार मेडिकल कॉलेज, कोलकाता, पश्चिम बंगाल में प्रशिक्षित किये जा रहे छात्रों के संबंध में पश्चिम बंगाल स्वास्थ्य विज्ञान विश्वविद्यालय, कोलकाता, पश्चिम बंगाल द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी)।
“मास्टर ऑफ चिरूरुगई (कार्डियो थोरासिस एंड वस्कुलर सर्जरी)”	एमसीएच (सीटीवीएस) (यह वर्ष 2014 में या उसके बाद नीलरतन सरकार मेडिकल कॉलेज, कोलकाता, पश्चिम बंगाल में प्रशिक्षित किये जा रहे छात्रों के संबंध में पश्चिम बंगाल स्वास्थ्य विज्ञान विश्वविद्यालय, कोलकाता, पश्चिम बंगाल द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी)।
“डॉक्टर ऑफ मेडिसिन (पेडियाट्रिक्स)”	एमडी (पेडियाट्रिक्स) (यह वर्ष 2014 में या उसके बाद चितरंजन सेवा सदन अस्पताल, कोलकाता, पश्चिम बंगाल में प्रशिक्षित किये जा रहे छात्रों के संबंध में पश्चिम बंगाल स्वास्थ्य विज्ञान विश्वविद्यालय, कोलकाता, पश्चिम बंगाल द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी)।
“मास्टर ऑफ सर्जरी (प्रसूति एवं स्त्री रोग)”	एमएस (ओबीजी) (यह वर्ष 2014 में या उसके बाद चितरंजन सेवा सदन अस्पताल, कोलकाता, पश्चिम बंगाल में प्रशिक्षित किये जा रहे छात्रों के संबंध में पश्चिम बंगाल स्वास्थ्य विज्ञान विश्वविद्यालय, कोलकाता, पश्चिम बंगाल द्वारा प्रदान की गई मान्यता प्राप्त चिकित्सा अर्हता होगी)।

- सभी के लिये नोट:— 1. किसी स्नातकोत्तर पाठ्यक्रम को इस प्रकार प्रदत्त मान्यता अधिकतम 05 वर्ष की अवधि के लिए होगी और उसके बाद उसका नवीकरण करना होगा।
2. उप-खण्ड-4 में यथापेक्षित समय पर मान्यता का नवीकरण नहीं करने पर संबंधित स्नातकोत्तर पाठ्यक्रम में दाखिला निरपवाद रूप से बंद हो जाएगा।

[सं. यू-12012/475/2015-एमई (पी-II)]

सुधीर कुमार, अवर सचिव

New Delhi, the 27th July, 2015

**S.O. 1648.**—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:—

In the said Schedule—

(a) against "Utkal University, Bhubaneswar, Odisha" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating to thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

2	3
"Doctor of Medicine/Master of Surgery (Anatomy)"	MD/MS (Anatomy) (This shall be a recognised medical qualification when granted by Utkal University, Bhubaneswar, Odisha in respect of students being trained at Hi-Tech Medical College & Hospital, Bhubaneswar on or after 2014)
"Doctor of Medicine (Pharmacology)"	MD (Pharmacology) (This shall be a recognised medical qualification when granted by Utkal University, Bhubaneswar, Odisha in respect of students being trained at Hi-Tech Medical College & Hospital, Bhubaneswar on or after 2014)
"Doctor of Medicine (Bio Chemistry)"	MD (Bio Chemistry) (This shall be a recognised medical qualification when granted by Utkal University, Bhubaneswar, Odisha in respect of students being trained at Hi-Tech Medical College & Hospital, Bhubaneswar on or after 2014)

(b) against "Siksha O Anusandhan University, Bhubaneswar, Odisha" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating to thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

1	2
"Doctor of Medicine (Pharmacology)"	MD (Pharmacology) (This shall be a recognised medical qualification when granted by Siksha O Anusandhan University, Bhubaneswar, Odisha in respect of students being trained at Institute of Medical Sciences & SUM Hospital, Bhubaneswar on or after 2014)
"Doctor of Medicine (Microbiology)"	MD (Microbiology) (This shall be a recognised medical qualification when granted by Siksha O Anusandhan University, Bhubaneswar, Odisha in respect of students being trained at Institute of Medical Sciences & SUM Hospital, Bhubaneswar on or after 2014)
"Doctor of Medicine (Pathology)"	MD (Pathology) (This shall be a recognised medical qualification when granted by Siksha O Anusandhan University, Bhubaneswar, Odisha in respect of students being trained at Institute of Medical Sciences & SUM Hospital, Bhubaneswar on or after 2014)

2	3
"Doctor of Medicine (Bio Chemistry)"	MD (Bio Chemistry) (This shall be a recognised medical qualification when granted by Siksha O Anusandhan University, Bhubaneswar, Odisha in respect of students being trained at Institute of Medical Sciences & SUM Hospital, Bhubaneswar on or after 2014)
"Doctor of Medicine (Physiology)"	MD (Physiology) (This shall be a recognised medical qualification when granted by Siksha O Anusandhan University, Bhubaneswar, Odisha in respect of students being trained at Institute of Medical Sciences & SUM Hospital, Bhubaneswar on or after 2014)

(c) against "West Bengal University of Health Sciences, Kolkata, West Bengal" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

2	3
"Doctor of Medicine (Pharmacology)"	MD (Pharmacology) (This shall be a recognised medical qualification when granted by West Bengal University of Health Sciences, Kolkata, West Bengal in respect of students being trained at School of Tropical Medicine, Kolkata, West Bengal on or after 2014)
"Doctor of Medicine (Cardiac Anesthesiology)"	MD (Cardiac Anesthesiology) (This shall be a recognised medical qualification when granted by West Bengal University of Health Sciences, Kolkata, West Bengal in respect of students being trained at Institute of Postgraduate Medical Education & Research, Kolkata, West Bengal on or after 2014)
"Master of Chirurgie (Urology/Genito-Urinary Surgery)"	M.Ch. (Urology/Genito-Urinary Surgery) (This shall be a recognised medical qualification when granted by West Bengal University of Health Sciences, Kolkata, West Bengal in respect of students being trained at Nilratan Sircar Medical College, Kolkata, West Bengal on or after 2014)
"Master of Chirurgie (Neuro Surgery)"	M.Ch. (Neuro Surgery) (This shall be a recognised medical qualification when granted by West Bengal University of Health Sciences, Kolkata, West Bengal in respect of students being trained at Nilratan Sircar Medical College, Kolkata, West Bengal on or after 2014)
"Master of Chirurgie (Cardio Thoracic and Vascular Surgery)"	M.Ch. (CTVS) (This shall be a recognised medical qualification when granted by West Bengal University of Health Sciences, Kolkata, West Bengal in respect of students being trained at Nilratan Sircar Medical College, Kolkata, West Bengal on or after 2014)
"Doctor of Medicine (Paediatrics)"	MD (Paediatrics) (This shall be a recognised medical qualification when granted by West Bengal University of Health Sciences, Kolkata, West Bengal in respect of students being trained at Chittaranjan Seva Sadan Hospital, Kolkata, West Bengal on or after 2014)
"Masters of Surgery (Obstetrics & Gynecology)"	MS (OBG) (This shall be a recognised medical qualification when granted by West Bengal University of Health Sciences, Kolkata, West Bengal in respect of students being trained at Chittaranjan Seva Sadan Hospital, Kolkata, West Bengal on or after 2014)

Note to all:— 1. The recognition so granted to a Postgraduate Course shall be for a maximum period of 5 years, upon which it shall have to be renewed.  
2. Failure to seek timely renewal of recognition as required in sub-clause-4 shall invariably result in stoppage of admissions to the concerned Postgraduate Course.

[No. U. 12012/475/2015-ME(P-II)]  
SUDHIR KUMAR, Under Secy.

नई दिल्ली, 27 जुलाई, 2015

**का.आ. 1649.**—भारतीय परिषद् चिकित्सा अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार, भारतीय चिकित्सा परिषद् से परामर्श करने के पश्चात्, एतद्वारा उक्त अधिनियम की प्रथम अनुसूची में और निम्नलिखित संशोधन करती है, अर्थात्:

उक्त अनुसूची में—

(क) “‘देवी अहिल्या विश्वविद्यालय इंदौर, मध्य प्रदेश’ के सामने ‘मान्यताप्राप्त चिकित्सा अर्हता [आगे कॉलम (2) के तौर पर उल्लिखित] शीर्ष के अंतर्गत, अंतिम प्रविष्टि के बाद और ‘पंजीकरण के लिए संक्षिप्त रूप’ [आगे कॉलम (3) के तौर पर उल्लिखित] शीर्षक के अंतर्गत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात्:—

2	3
डॉक्टर ऑफ मेडिसिन (बाल रोग)	एमडी (बाल रोग) (यह 2014 में अथवा उसके बाद श्री अरविंदो चिकित्सा महाविद्यालय एवं स्नात्कोत्तर संस्थान में प्रशिक्षित किए जा रहे छात्रों के संबंध में ‘देवी अहिल्या विश्वविद्यालय, इंदौर, मध्य प्रदेश विश्वविद्यालय द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी)।
मास्टर ऑफ सर्जरी (जनरल सर्जरी)	एमएस (जनरल सर्जरी) (यह 2014 में अथवा उसके बाद श्री अरविंदो चिकित्सा महाविद्यालय एवं स्नात्कोत्तर संस्थान में प्रशिक्षित किए जा रहे छात्रों के संबंध में ‘देवी अहिल्या विश्वविद्यालय, इंदौर, मध्य प्रदेश विश्वविद्यालय द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी)।
डॉक्टर ऑफ मेडिसिन (सामुदायिक मेडिसिन)	एमडी (सामुदायिक मेडिसिन) (यह 2014 में अथवा उसके बाद श्री अरविंदो चिकित्सा महाविद्यालय एवं स्नात्कोत्तर संस्थान में प्रशिक्षित किए जा रहे छात्रों के संबंध में ‘देवी अहिल्या विश्वविद्यालय, इंदौर, मध्य प्रदेश’ विश्वविद्यालय द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी)।
मास्टर ऑफ सर्जरी (ओटो-राइनो-लैरिंगोलॉजी)	(एमएस ईएनटी) (यह 2014 में अथवा उसके बाद श्री अरविंदो चिकित्सा महाविद्यालय एवं स्नात्कोत्तर संस्थान में प्रशिक्षित किए जा रहे छात्रों के संबंध में ‘देवी अहिल्या विश्वविद्यालय, इंदौर, मध्य प्रदेश’ विश्वविद्यालय द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी)।
डॉक्टर ऑफ मेडिसिन (रेडियोथेरेपी)	एमडी (रेडियोथैरेपी) (यह 2014 में अथवा उसके बाद श्री अरविंदो चिकित्सा महाविद्यालय एवं स्नात्कोत्तर संस्थान में प्रशिक्षित किए जा रहे छात्रों के संबंध में ‘देवी अहिल्या विश्वविद्यालय, इंदौर, मध्य प्रदेश’ विश्वविद्यालय द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी)।
डॉक्टर ऑफ मेडिसिन (फोरेंसिक मेडिसिन)	एमडी (फोरेंसिक मेडिसिन) (यह 2014 में अथवा उसके बाद श्री अरविंदो चिकित्सा महाविद्यालय एवं स्नात्कोत्तर संस्थान में प्रशिक्षित किए जा रहे छात्रों के संबंध में ‘देवी अहिल्या विश्वविद्यालय, इंदौर, मध्य प्रदेश’ विश्वविद्यालय द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी)।

[illegible]



[illegible]

2	3
“डॉक्टर ऑफ मेडिसन (फार्माकोलॉजी)”	एमडी (फार्माकोलॉजी) (यह 2014 में अथवा उसके बाद इंडेक्स चिकित्सा कॉलेज अस्पताल एवं अनुसंधान केन्द्र, इंदौर में प्रशिक्षित किए जा रहे छात्रों के संबंध में ‘देवी अहिल्या विश्वविद्यालय, इंदौर, मध्य प्रदेश’ विश्वविद्यालय द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी)।
“डॉक्टर ऑफ मेडिसन (पैथोलॉजी)”	एमडी (पैथोलॉजी) (यह 2014 में अथवा उसके बाद इंडेक्स चिकित्सा कॉलेज अस्पताल एवं अनुसंधान केन्द्र, इंदौर में प्रशिक्षित किए जा रहे छात्रों के संबंध में ‘देवी अहिल्या विश्वविद्यालय, इंदौर, मध्य प्रदेश’ विश्वविद्यालय द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी)।
“डॉक्टर ऑफ मेडिसन (सामुदायिक मेडिसन)”	एमडी (सामुदायिक मेडिसन) (यह 2014 में अथवा उसके बाद इंडेक्स चिकित्सा कॉलेज अस्पताल एवं अनुसंधान केन्द्र, इंदौर में प्रशिक्षित किए जा रहे छात्रों के संबंध में ‘देवी अहिल्या विश्वविद्यालय, इंदौर, मध्य प्रदेश’ विश्वविद्यालय द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी)।

(ख) ‘विक्रम विश्वविद्यालय, उज्जैन, मध्य प्रदेश के सामने मान्यताप्राप्त चिकित्सा अर्हता [आगे कॉलम (2) के तौर पर उल्लिखित] शीर्ष के अंतर्गत, अंतिम प्रविष्टि के बाद और ‘पंजीकरण के लिए संक्षिप्त रूप’ [आगे कॉलम (3) के तौर पर उल्लिखित] शीर्षक के अंतर्गत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात:—

2	3
“डॉक्टर ऑफ सर्जरी (ओर्थोपैडिक्स)”	एमडी (ओर्थोपैडिक्स) (यह 2014 में अथवा उसके बाद रूक्मणिबेन दीपचन्द गर्दी चिकित्सा कॉलेज, उज्जैन में प्रशिक्षित किए जा रहे छात्रों के संबंध में विक्रम विश्वविद्यालय, उज्जैन, मध्य प्रदेश’ द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी)।

(ग) ‘बरकतुल्ला विश्वविद्यालय, भोपाल, मध्य प्रदेश के सामने मान्यताप्राप्त चिकित्सा अर्हता [आगे कॉलम (2) के तौर पर उल्लिखित] शीर्ष के अंतर्गत, अंतिम प्रविष्टि के बाद और ‘पंजीकरण के लिए संक्षिप्त रूप’ [आगे कॉलम (3) के तौर पर उल्लिखित] शीर्षक के अंतर्गत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात:—

2	3
“मास्टर ऑफ सर्जरी (जनरल सर्जरी)”	एमएस (जनरल सर्जरी) (यह 2014 में अथवा उसके बाद पीपल्स चिकित्सा विज्ञान कॉलेज एवं अनुसंधान केन्द्र, भानपुर, भोपाल में प्रशिक्षित किए जा रहे छात्रों के संबंध में ‘बरकतुल्ला विश्वविद्यालय, भोपाल, मध्य प्रदेश’ विश्वविद्यालय द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी)।
“मास्टर ऑफ सर्जरी (ओटो-राइनो-लैरिंगोलॉजी)”	एमएस (ईएनटी) (यह 2014 में अथवा उसके बाद पीपल्स चिकित्सा विज्ञान कॉलेज एवं अनुसंधान केन्द्र, भानपुर, भोपाल में प्रशिक्षित किए जा रहे छात्रों के संबंध में ‘बरकतुल्ला विश्वविद्यालय, भोपाल, मध्य प्रदेश’ द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी)।

[illegible]

2	3
“डॉक्टर ऑफ मेडिसन (एनेस्थीसियोलॉजी)”	एमडी (एनेस्थीसियोलॉजी) (यह 2014 में अथवा उसके बाद पीपल्स चिकित्सा विज्ञान कॉलेज एवं अनुसंधान केन्द्र, भानपुर, भोपाल में प्रशिक्षित किए जा रहे छात्रों के संबंध में ‘बरकतुल्ला विश्वविद्यालय, भानपुर, भोपाल, मध्य प्रदेश’ द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी)।
“डॉक्टर ऑफ मेडिसन (क्षयरोग एवं श्वसन रोग/पल्मनरी मेडिसन)”	एमडी (क्षयरोग एवं श्वसन रोग/पल्मनरी मेडिसन) (यह 2014 में अथवा उसके बाद पीपल्स चिकित्सा विज्ञान कॉलेज एवं अनुसंधान केन्द्र, भानपुर, भोपाल में प्रशिक्षित किए जा रहे छात्रों के संबंध में ‘बरकतुल्ला विश्वविद्यालय, भानपुर, भोपाल, मध्य प्रदेश’ द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी)।
“डॉक्टर ऑफ मेडिसन (चर्म रोग, योन रोग एवं कुष्ठ रोग)”	एमडी (डीवीएल) (यह 2014 में अथवा उसके बाद पीपल्स चिकित्सा विज्ञान कॉलेज एवं अनुसंधान केन्द्र, भानपुर, भोपाल में प्रशिक्षित किए जा रहे छात्रों के संबंध में ‘बरकतुल्ला विश्वविद्यालय, भानपुर, भोपाल, मध्य प्रदेश’ द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी)।
“डॉक्टर ऑफ मेडिसन (पैथोलॉजी)”	एमडी (पैथोलॉजी) (यह 2014 में अथवा उसके बाद पीपल्स चिकित्सा विज्ञान कॉलेज एवं अनुसंधान केन्द्र, भानपुर, भोपाल में प्रशिक्षित किए जा रहे छात्रों के संबंध में ‘बरकतुल्ला विश्वविद्यालय भानपुर, भोपाल, मध्य प्रदेश’ द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी)।

सभी के लिए टिप्पणी:—1. स्नातकोत्तर पाठ्यक्रम के लिए स्वीकृत मान्यता 5 वर्ष की अधिकतम अवधि के लिए होगी जिसके बाद इसका नवीकरण किया जाएगा।

2. उप-धारा 4 में अपेक्षित अनुसार मान्यता को समय पर नवीकरण नहीं कराने के फलस्वरूप संबंधित स्नातकोत्तर पाठ्यक्रम में निरपवाद रूप से दाखिला बन्द हो जाएगा।

[सं० यू० 12012/472/2015-एमई(पी-II)]

सुधीर कुमार, अवर सचिव

New Delhi, the 27th July, 2015

**S.O. 1649.**—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:—

In the said Schedule—

(a) against "Devi Ahilya Vishwa Vidyalaya, Indore Madhya Pradesh" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)] the following shall be inserted, namely:—

2	3
"Doctor of Medicine (Paediatrics)"	MD(Paediatrics) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Sri Aurobindo Medical College and Post Graduate Institute, Indore on or after 2014)
"Master of Surgery (General Surgery)"	MS (General Surgery) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Sri Aurobindo Medical College and Post Graduate Institute, Indore on or after 2014)

2	3
"Doctor of Medicine(Community Medicine)"	MD(Community Medicine) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Sri Aurobindo Medical College and Post Graduate Institute, Indore on or after 2014)
"Master of Surgery (Otorhinolaryngology)"	MS (ENT) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Sri Aurobindo Medical College and Post Graduate Institute, Indore on or after 2014)
"Doctor of Medicine (Radiotherapy)"	MD (Radiotherapy) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Sri Aurobindo Medical College and Post Graduate Institute, Indore on or after 2014)
"Doctor of Medicine (Forensic Medicine)"	MD (Forensic Medicine) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Sri Aurobindo Medical College and Post Graduate Institute, Indore on or after 2014)
"Master of Chirurgie (Neurosurgery)"	M.Ch (Neurosurgery) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Sri Aurobindo Medical College and Post Graduate Institute, Indore on or after 2014)
"Doctor of Medicine (Radio Diagnosis)"	MD (Radio Diagnosis) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Sri Aurobindo Medical College and Post Graduate Institute, Indore on or after 2014)
"Master of Surgery (Orthopaedics)"	MS (Orthopaedics) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Sri Aurobindo Medical College and Post Graduate Institute, Indore on or after 2014)
"Doctor of Medicine (Tuberculosis & Respiratory Diseases/Pulmonary Medicine)"	MD(Tuberculosis & Respiratory Diseases/Pulmonary Medicine) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Sri Aurobindo Medical College and Post Graduate Institute, Indore on or after 2014)
"Doctor of Medicine/Master of Surgery (Obstetrics & Gynecology)"	MD/MS (OBG) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Sri Aurobindo Medical College and Post Graduate Institute, Indore on or after 2014)
Doctor of Medicine (General Medicine)"	MD (General Medicine) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Sri Aurobindo Medical College and Post Graduate Institute, Indore on or after 2014)

2	3
"Doctor of Medicine/Master of Surgery (Ophthalmology)"	MD/MS (Ophthalmology) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Sri Aurobindo Medical College and Post Graduate Institute, Indore on or after 2014)
"Doctor of Medicine (Dermatology, Venerology and Leprosy)"	MD (DVL) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Sri Aurobindo Medical College and Post Graduate Institute, Indore on or after 2014)
"Doctor of Medicine (Microbiology)"	MD (Microbiology) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Sri Aurobindo Medical College and Post Graduate Institute, Indore on or after 2014)
"Doctor of Medicine (Psychiatry)"	MD (Psychiatry) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Sri Aurobindo Medical College and Post Graduate Institute, Indore on or after 2014)
"Doctor of Medicine (Pathology)"	MD (Pathology) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Sri Aurobindo Medical College and Post Graduate Institute, Indore on or after 2014)
"Doctor of Medicine (Bio Chemistry)"	MD (Bio Chemistry) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Sri Aurobindo Medical College and Post Graduate Institute, Indore on or after 2014)
"Doctor of Medicine/Master of Surgery (Anatomy)"	MD/MS (Anatomy) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Sri Aurobindo Medical College and Post Graduate Institute, Indore on or after 2014)
"Doctor of Medicine (Anaesthesiology)"	MD (Anaesthesiology) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Sri Aurobindo Medical College and Post Graduate Institute, Indore on or after 2014)
"Doctor of Medicine (Physiology)"	MD (Physiology) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Sri Aurobindo Medical College and Post Graduate Institute, Indore on or after 2014)
"Doctor of Medicine (Pharmacology)"	MD (Pharmacology) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Sri Aurobindo Medical College and Post Graduate Institute, Indore on or after 2014)



2	3
"Doctor of Medicine (Physiology)"	MD (Physiology) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Index Medical College Hospital & Research Centre, Indore on or after 2014)
"Doctor of Medicine (Pharmacology)"	MD (Pharmacology) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Index Medical College Hospital & Research Centre, Indore on or after 2014)
"Doctor of Medicine (Pathology)"	MD(Pathology) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Index Medical College Hospital & Research Centre, Indore on or after 2014)
"Doctor of Medicine (Community Medicine)"	MD (Community Medicine) (This shall be a recognised medical qualification when granted by 'Devi Ahilya Vishwa Vidyalaya, Indore, Madhya Pradesh' in respect of students being trained at Index Medical College Hospital & Research Centre, Indore on or after 2014)

(b) against "Vikram University, Ujjain, Madhya Pradesh" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

1	2
"Master of Surgery (Orthopaedics)"	MS (Orthopaedics) (This shall be a recognised medical qualification when granted by 'Vikram University, Ujjain, Madhya Pradesh' in respect of students being trained at Rukmaniben Deepchand Gardi Medical College Ujjain on or after 2014)

(c) against "Barkatulla University, Bhopal Madhya Pradesh" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

2	3
"Master of Surgery (General Surgery)"	MD (General Surgery) (This shall be a recognised medical qualification when granted by 'Barkatulla University, Bhopal, Madhya Pradesh' in respect of students being trained at People's College of Medical Sciences & Research Centre, Bhanpur, Bhopal on or after 2014)
"Master of Surgery (Otorhinolaryngology)"	MS (ENT) (This shall be a recognised medical qualification when granted by 'Barkatulla University, Bhopal, Madhya Pradesh' in respect of students being trained at People's College of Medical Sciences & Research Centre, Bhanpur, Bhopal on or after 2014)
"Master of Surgery (Anatomy)"	MS (Anatomy) (This shall be a recognised medical qualification when granted by 'Barkatulla University, Bhopal, Madhya Pradesh' in respect of students being trained at People's College of Medical Sciences & Research Centre, Bhanpur, Bhopal on or after 2014)
"Doctor of Medicine (Pharmacology)"	MD (Pharmacology) (This shall be a recognised medical qualification when granted by 'Barkatulla University, Bhopal, Madhya Pradesh' in respect of students being trained at People's College of Medical Sciences & Research Centre, Bhanpur, Bhopal on or after 2014)

2	3
"Doctor of Medicine (Physiology)"	MD (Physiology) (This shall be a recognised medical qualification when granted by 'Barkatulla University, Bhopal, Madhya Pradesh' in respect of students being trained at People's College of Medical Sciences & Research Centre, Bhanpur, Bhopal on or after 2014)
"Doctor of Medicine (Microbiology)"	MD (Microbiology) (This shall be a recognised medical qualification when granted by 'Barkatulla University, Bhopal, Madhya Pradesh' in respect of the students being trained at People's College of Medical Sciences & Research Centre, Bhanpur, Bhopal on or after 2014)
"Doctor of Medicine (Biochemistry)"	MD (Biochemistry) (This shall be a recognised medical qualification when granted by 'Barkatulla University, Bhopal, Madhya Pradesh' in respect of the students being trained at People's College of Medical Sciences & Research Centre, Bhanpur, Bhopal on or after 2014)
"Doctor of Medicine (Social & Preventive Medicine/Community Medicine)"	MD (Social & Preventive Medicine/ Community Medicine) (This shall be a recognised medical qualification when granted by 'Barkatulla University, Bhopal, Madhya Pradesh' in respect of the students being trained at People's College of Medical Sciences & Research Centre, Bhanpur, Bhopal on or after 2014)
"Doctor of Medicine (Psychiatry)"	MD (Psychiatry) (This shall be a recognised medical qualification when granted by 'Barkatulla University, Bhopal, Madhya Pradesh' in respect of students being trained at People's College of Medical Sciences & Research Centre, Bhanpur, Bhopal on or after 2014)
"Master of Surgery (Orthopaedics)"	MS (Orthopaedics) (This shall be a recognised medical qualification when granted by 'Barkatulla University, Bhopal, Madhya Pradesh' in respect of students being trained at People's College of Medical Sciences & Research Centre, Bhanpur, Bhopal on or after 2014)
"Doctor of Medicine (Anaesthesiology)"	MD (Anaesthesiology) (This shall be a recognised medical qualification when granted by 'Barkatulla University, Bhopal, Madhya Pradesh' in respect of the students being trained at People's College of Medical Sciences & Research Centre, Bhanpur, Bhopal on or after 2014)
"Doctor of Medicine (Tuberculosis & Respiratory Disease/Pulmonary Medicine)"	MD (Tuberculosis & Respiratory Disease/Pulmonary Medicine) (This shall be a recognised medical qualification when granted by 'Barkatulla University, Bhopal, Madhya Pradesh' in respect of students being trained at People's College of Medical Sciences & Research Centre, Bhanpur, Bhopal on or after 2014)
"Doctor of Medicine (Dermatology, Venerology & Leprosy)"	MD (DVL) (This shall be a recognised medical qualification when granted by 'Barkatulla University, Bhopal, Madhya Pradesh' in respect of the students being trained at People's College of Medical Sciences & Research Centre, Bhanpur, Bhopal on or after 2014)
"Doctor of Medicine (Pathology)"	MD (Pathology) (This shall be a recognised medical qualification when granted by 'Barkatulla University, Bhopal, Madhya Pradesh' in respect of the students being trained at People's College of Medical Sciences & Research Centre, Bhanpur, Bhopal on or after 2014)

**Note to all:—** 1. The recognition so granted to a Postgraduate Course shall be for a maximum period of 5 years, upon which it shall have to be renewed.  
2. Failure to seek timely renewal of recognition as required in sub-clause-4 shall invariably result in stoppage of admissions to the concerned Postgraduate Course.

[No. U. 12012/472/2015-ME(P-II)]  
SUDHIR KUMAR, Under Secy.

नई दिल्ली, 12 अगस्त, 2015

**का.आ. 1650.**—भारतीय चिकित्सा परिषद अधिनियम, 1956 (1956 का 102) की धारा 32 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार एतद्वारा निम्नलिखित नियम बनाती है नामतः—

1. (i) इन नियमों का भारतीय चिकित्सा परिषद (स्नातकोत्तर चिकित्सा शिक्षा समिति) नियम, 1961 कहा जाएगा।

(ii) ये सरकारी राजपत्र में उनके प्रकाशन की तारीख से प्रवृत्त होंगे।

2. “भारतीय चिकित्सा परिषद (स्नातकोत्तर) चिकित्सा शिक्षा समिति नियम, 1961”, जिसमें आगे 27.10.2000 तक संशोधन किया गया था, में निम्नलिखित परिवर्धन/आशोधन/विलोपन/प्रतिस्थापन को दर्शाया जाएगा:—

3. “परिषद की बैठक” शीर्षक के अंतर्गत खण्ड 6 (2) में निम्नलिखित प्रतिस्थापित किया जाएगा:

“समिति की बैठक के गठन के कोरम में चार सदस्य उपस्थित होने चाहिए।”

[सं० वी० 11012/3/2015-एमईपी-I]

अमित बिस्वास, अवर सचिव

**पाद टिप्पणी:** मूल अधिसूचना भारत के राजपत्र में दिनांक 14 जुलाई, 1961 की अधिसूचना सं०सा०आ० 1699 द्वारा प्रकाशित हुई थी।

(1) स्वास्थ्य और परिवार कल्याण मंत्रालय द्वारा दिनांक 29 दिसंबर, 1981 की अधिसूचना सं०वी० 11019/2/81-एमई (नीति) द्वारा संशोधित।

(2) स्वास्थ्य और परिवार कल्याण मंत्रालय, भारत सरकार की दिनांक 27 अक्टूबर, 2000 की अधिसूचना वी० 1012/2/98-एमई (यूजी) द्वारा आगे संशोधन किया जाएगा।

New Delhi, the 12th August, 2015

**S.O. 1650.**—In exercise of the powers conferred by Section 32 of the Indian Medical Council Act, 1956 (102 of 1956) the Central Government hereby makes the following rules namely:—

1. (i) These rules may be called the Indian Medical Council (Post-graduate) Medical Education Committee Rules, 1961.

(ii) They shall come into force from the date of their publication in the Official Gazette.

2. In the "Indian Medical Council (Post Graduate) Medical Education Committee Rules, 1961", further

amended till 27.10.2000, the following additions/modifications/deletions/substitutions, shall be as indicated therein:—

3. In Clause 6(2) under the heading "Meeting of the Council", the following shall substitute:—

"The quorum to constitute the meeting of the committee shall be presence of four members."

[No. V. 11012/3/2015-MEP-I]

AMIT BISWAS, Under Secy.

**Foot note :** The Principal, Notification was published in the Gazette of India *vide* notification No. S.O. 1699 dated the 14th July, 1961".

(1) Amended by Ministry of Health & Family Welfare, Notification No. V.11019/2/81-ME(Policy), dated the 29th December, 1981.

(2) Further amended by Ministry of Health & Family Welfare, Govt. of India Notification V. 1012/2/98-ME(UG), dated 27th October, 2000.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 17 अगस्त, 2015

**का.आ. 1651.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार रिलायंस कम्युनिकेशंस लिमिटेड के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय लखनऊ के पंचाट (संदर्भ सं० 76/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 14/08/2015 को प्राप्त हुआ था।

[सं० एल-42025/03/2015-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

**MINISTRY OF LABOUR AND EMPLOYMENT**

New Delhi, the 17th August, 2015

**S.O. 1651.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. 76/2014) of the Central Government Industrial Tribunal-Cum-Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Reliance Communications Ltd. and their workman, which was received by the Central Government on 14/08/2015.

[No. L-42025/03/2015-IR(DU)]

P. K. VENUGOPAL, Desk Officer

**ANNEXURE****CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, LUCKNOW****PRESENT**

**RAKESH KUMAR,**  
**PRESIDING OFFICER**

**I.D. No. 76/2014****BETWEEN**

**Shri Arif Nabi Khan S/o Shri Nabi Ullah Khan**

**R/o House No. 512/245, A**

**5th Lane, Nishatganj, Lucknow -226007.**

**AND**

1. Chairman  
M/s Reliance Communications Ltd.  
H Block, 02nd Floor, Dhirubhai Ambani  
Knowledge City (DAKC)  
Navi Mumbai-400710.
2. Circle Business Head — UP  
M/s Reliance Communications Ltd.  
2nd Floor, Magnum Plaza, Eldeco Greens  
Gomti Nagar, Lucknow-226 010
3. HR Head, RCOM Business  
M/s Reliance Communications Ltd.  
2nd Floor, Dhirubhai Ambani Knowledge City  
(DAKC) Navi Mumbai-400710.
4. Sri Ajay Duggal, Circle Business Head-UP  
M/s Reliance Communications Ltd.  
2nd Floor, Magnum Plaza, Eldeco Greens  
Gomti Nagar, Lucknow-226010
5. Shri Amit Das, HR Head, RCOM Business  
H Block, 02nd Floor, Dhirubhai Ambani  
Knowledge City (DAKC)  
Navi Mumbai-400710.
6. Shri Bharat Rastogi Circle Commercial Head—UP  
M/s Reliance Communications Ltd.  
2nd Floor, Magnum Plaza, Eldeco Greens  
Gomti Nagar, Lucknow-226 010
7. Ms Shashi Rani Singh, HR Manager —UP  
M/s Reliance Communications Ltd.  
2nd Floor, Magnum Plaza, Eldeco Greens  
Gomti Nagar, Lucknow-226010

**AWARD**

1. The present industrial dispute has been filed by the workman, Arif Nabi Khan under provision contained in the Section 2A (2) of the Industrial Disputes Act, 1947 (14 of 1947) against alleged termination of his services by the

management of Reliance Communications Limited for adjudication before this CGIT-cum-Labour Court, Lucknow.

2. The workman by the way of present industrial dispute had challenged the validity of termination of his service by the opposite parties *w.e.f* 01.08.2014 and prayed this Tribunal to declare the same as illegal improper and unjustified and direct the opposite parties to reinstate him with consequential benefits. The opposite parties were served upon a copy of the statement of claim by the workman in advance, and the opposite parties were issued notice by this Tribunal to file their written statement along with relevant documents and list of witness. The opposite parties filed their authority in favour of Sharad Kumar Shukla, who filed preliminary objection regarding maintainability of the preset industrial dispute. The objections of the workman thereon were called after furnishing him a copy of the same.

3. During the course of the proceedings, the parties were pursued to settle the dispute between them amicably through Lok Adalat. Accordingly, the case was taken up at Lok Adalat on 24.07.2015.

5. On 24.07.2015 the workman, Arif Nabi Khan was present in person whereas the opposite parties were represented by Shri Sharad Kumar Shukla. After prolong discussions and persuasion at Lok Adalat the parties arrived upon a settlement and filed a memorandum of settlement, Paper No. C-7 with following memorandum of settlement:

- (i) That the employee was appointed and has been discharging the duties on managerial nature in the employment of the management.
- (ii) That the employee has instituted following proceedings against the management and/or its officers (employees):—
  - a. Dispute before Hon'ble CGIT, Lucknow - ID Case No 76/2014, Arif Nabi Khan vs M/s Reliance Communication.
- (iii) That the employee agree and has withdrawn all the above proceedings and has undertaken to withdraw any other proceeding instituted by him against the management or its officers (employees immediately and for this purpose to take all steps which may be necessary.
- (iv) That it is now agreed that the employee will submit his resignation to the organization on his own will and mutually part ways.
- (v) That it is now agreed that the employee will be paid a sum of Rs. 75000 (Rupees Seventy Five Thousand only) as a one time settlement amount to be paid along with F&F dues.
- (vi) That subject to clause 4 & 5 herein before, the employee shall have no claim, whatsoever

including but not limited to damages etc, against the management and/or its officers (employees) stand settled and satisfied.

- (vii) That the employee herewith withdraws all the allegations made against the management and/or its employees.
- (viii) That the settlement was reached between the parties of their own free will and without any misrepresentation, force, coercion or undue pressure being exercised by any party on the other.

The terms of settlement were read over to the parties; who put their signatures after understanding the same; and accordingly, settled the industrial dispute between them, amicably.

7. In view of the settlement arrived at between the parties, there is no grievance left with the workman. Resultantly, the industrial dispute stands settled; and no relief is required to be given to the workman concerned. The industrial dispute under adjudication is adjudicated upon accordingly

8. Award as above.

Lucknow  
03rd August, 2015

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 17 अगस्त, 2015

**का.आ. 1652.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार खनन एवं ईंधन अनुसंधान के केन्द्रीय संस्थान के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 2, धनबाद के पंचाट (संदर्भ सं० 02 का 2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 14/08/2015 को प्राप्त हुआ था।

[सं० एल-42011/23/2010-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th August, 2015

**S.O. 1652.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D Ref No. 02 of 2010) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Central Institute of Mining and Fuel Research and their workmen, which was received by the Central Government on 14/08/2015.

[No. L-42011/23/2010-IR(DU)]

P.K. VENUGOPAL, Desk Officer

## ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

#### PRESENT:

Shri Kishori Ram, Presiding Officer

In the Matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act., 1947.

#### REFERENCE NO. 02 OF 2010

#### PARTIES

: General Secretary,

Bhartiya Audyogik Anusandhan  
Shramik Sangh,

At: Vishwakarma, Bhawan, PB No.  
68, Dhanbad (Jharkhand),

**Vs.**

The Director,

Central Instt. of Mining and Fuel  
Research, PO: FRI, Dhanbad.

Order No. **L-42011/23/2010-  
IR(DU) dt. 31.05.2010.**

#### APPEARANCES:

On behalf of the workman/Union : Mr. Dilip Kr. Shah Ld.  
Rep. of the Workmen

On behalf of the Management : Mr. D.K. Verma Ld  
Advocate

State : Jharkhand

Industry : Scientific and Research Institute

Dated, Dhanbad, the 17th July, 2015

#### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-42011/23/2010-IR(DU) dt. 31.05.2010.

#### SCHEDULE

"Whether the demand of Bhartiya Audhyogic Anusandhan Shramik Sangh for regularization of services of Shri Madhu Saudan Mahto and 13 others, as per Annexure, by the Management of Central Institute of Mining and Fuel Research is legal and justified? If yes, what relief the workmen are entitled to?"

On receipt of the Order No. L-42011/23/2010-IR(DU) dt. 31.05.2010 of the above mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference



Case No. 02 of 2010 was registered on 15.06.2010 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Union and the O.P./Management through their own Representative and Ld. Counsel, respective, appeared in, and contested the case.

2. The case of workmen Madhusudan Mahato (wrongly written as Madhu Saudan in the Reference) and 13 others as per Annexure as represented in their written statement by the Union concerned is that the workmen have been though continuously working jobs of permanent and perennial nature as assigned under the Management for the last 5—24 years as specified in its para 4 specifically, yet not being treated as permanent workmen of the Management. All the jobs of Lab Helper & others in Electronic works to the Scientist are being performed by the permanent staff in addition to the workmen. The work being performed by the workmen includes all the activities which are inseparable from the Colliery/vocation of the Management as integral part of the whole system uninterruptedly running for ages/a very long time. The work job beg along by the workmen is the base for the gigantic structure of various departments of the Management which would be idle in lack of it. It is also further stated that the conduct and duties of the workmen are controlled by the Management as they had to discharge their duties under the strict supervision and control of the Management. Even the categorization of the Labourers of alleged contractor are decided by the Management as evident from the Management office memo dt. Aug., 10/11.2009 (Annexure-A). The Muster roll contractors, if any, have no sanctity in such situation, as the allegation of the Management about the workmen as the contractor's employees is ill-motived and illegal in order to deprive them of their right to life as guaranteed under Article 21 of Constitution of India, and to defeat the object of employment policy as well as that of the I.D. Act. They are working on regular post. They were appointed through the rigorous interview and process of appointment. They have been issued gate pass/Entrance pass by the Management. The absorption of the workmen in the Management in view of the inevitable work of it would be as per the mandate and requirement under Sec. 10 of the Contract Labour (Regulation & Abolition Act, 1970).

3. Further case of the workmen is that double standard pleas of the Management adherence to all the industrial law including registration of the Management under the Contract Labour (R&A) Act and non existence of 'Industry' about the Management are unacceptable in view of the

reference for adjudication u/s 10 of the I.D. Act. It is also alleged by the Union concerned that the Management in order to make a services of contract-labour effective has decided as per the Notice dt. 20/2/2007 (Annexure-B) to grant co-employees status to the contractual labourers. In response to the notice, the different departmental Heads of the Management submitted a list of labourers of alleged contractor including the names of present workmen with their respective Biodates & photographs submitted to the Management (Annexure-C series). But the Management in collusion with the one Union of political Association/Party unconsidered the case of workmen by excluding their names from the list. Then the ten workmen out of aforesaid 14 ones had represented on 27.10.08 before the Director as per their Representation (Annexure-D). At their representation, the workmen apprehended of deprivation of their livelihood at the hands of the Management. Though the Management granted the status of core-employees to 165 labourers of alleged contractor, the workmen were left discriminately which amounted to violation of provision of equal remuneration at the principle of natural justice as well. It is also alleged that after absorbing the foresaid 165 Labourers as per Memo dt. 15.10.2008 (Annex-L), the Management directed to abolish the contract system, denying the workmen their due reliefs discriminately. Under such circumstances, the workmen deserve their relief for declaring them as permanent/core employees of the Management *w.e.f.* 15.10.2008, the date of other similarly situated contractual Labourers were absorbed as core employees.

4. Whereas the contra case of the OP/Management is that the Central Mining Research, Dhanbad, is an institute of Council of Scientific and Industrial Research known as C.S.I.R. It is an autonomous body and a society registered under the Societies Registration Act, 1860. It was constituted as per the Resolution dt.26.09.1942 of the Department of Commerce of Government of India, following the constitution of the Board of Scientific and Industrial Research and an Industrial Research Utilization Committee as per the resolutions of the said Department of India Government dt. 27.4.1940 and 01.02.1941 respectively. The functions of the Council were to implement the Resolution passed by the Legislative Assembly on 14.11.1941 recommending the Governor General in Council for creation of the Industrial Research Fund in order to foster Industrial Development in this country and also for grant of Ten Lac rupees annually in the Budget for period of five years. The promotion, guidance and co-ordination of the Scientific and Industrial Research, financing of scientific researches, establishment, development, and assistance to special institutions or existing ones for scientific study of problems affecting particular industries and trade, the establishments and award of research studentship and fellowships the utilization of the results of the researches in developing the Industries in the country and the payment to a share of royalties from developments of research results to the



researchers contributing towards the pursuit of such researches are the main other objects of the Council. The establishment, maintenance and Management of Laboratories, workshops, Institutes and organization for further scientific and Industrial researches as well as for utilization of it in its experiment or otherwise discovery or invention likely to be useful for Indian Industries, the collection and dissemination to information, publication of scientific papers and journal of Industrial Research, development and others activities are generally to promote the objects of the regular scientific and industrial researches in the Company.

5. Further is alleged that the CSIR sets up a chain of National Laboratories and Research Institutes with a Framework in various parts of the country in its further substantial pursuit to make the nation self sufficient in scientific and industrial sphere. The Institutions with other research agencies anti with firm support of pilot plants in order to shape the Policy decision of the National Level into practical Results. It provides a solid infrastructure for a Corps of over 25,000 highly qualified Scientists and Technologist. Apart from the undertakings of prolonged investigation based on the fundamental problems, it also tackles specific time bound targeted projects lying in more than one discipline. It along with other Scientific, Technological and Engineering inputs to harmonize the industry and economy with the national concert of self reliance. All these activities Institutes and Laboratories are controlled by it under its Director General and the Council helps its Governing Body with the Prime Minister as its President. The Scientific and Technological Research has developed tremendously since independence by covering a large number of areas of scientific and technology. Out of the six types of Institutions undertaking research in the fields namely, the Autonomous Organization (the instant respondent) the Specific Department /Commission is headed by the eminent Scientists institutes under Minister including Department of Science and Technology Industries' R & D Establishment the Cooperative Research Association and the Private Institutes at the incentive of the Government to the people for their investment research at. the Tax Exemption for educational and research purposes, The Respondent is a registered Society under the Registration of Societies Act, 1860.

6. It is also alleged that Planning Commission as per its policy and objective for research has set up various groups of experts in different fields to formulate the plan for relevant section in collaboration with Central Minister and State Governments. Likewise the Planning commission has set-up independent Committee working Groups, the Panel of experts anti Scientists to suggest plan for various sectors of Scientific Research. As such the CSIR/CIMFR can not termed as an industry within the meaning of the Industrial Dispute Act, 1947, as its entire activity is of research and development in nature for a national cause but not for any

commercial and trade purpose. The Central Institute of Mining and Fuel Research (being a Constituent Unit of the Council of Scientific and Industrial Research (CSIR) is governed by the rules and byelaws of the CSIR and as per the laws of the Society. The services and financial rules and such other rules and orders framed and issued by the Government of India are applicable mutatis mutandis to the employees of the society concerning their service, conditions and various central rules such as Central Civil Services (Classification, Control and Appeals Rules). The Central Civil Services Conduct rules of the Central Government is also applicable to the employees of the Institute, as the appointment in the research institutes is regulated statutory Rules of the Central Government beyond the purview of an Industry It is also alleged that the alleged workmen in the instant case were never engaged against any post except in exigency through the contractor over the availability of work. The respondent namely, CIMFR is merely a Research Institute discharging its function with a domestic Enterprises. but not for any commercial Enterprises. Further it is also alleged that the instant workmen were the workers of the contractors, so no employer-employee relationship ever existed nor exists between the Management and workmen. The contractual workers have no right for any post, because they were engaged by their Contractor under whose direct control and supervision, they are working and getting their payment from their contractors for their works following the payment of their bills by the Management to the contractors. Thus the Contractual workers are not entitled for regularization.

7. The OP/Management in its simultaneous rejoinder has categorically denied the allegations of the workmen as irrelevant, incorrect and baseless, further stating that the notice dt.20.02.2007 being related to the petition filed by Sri Mantu Kant Mandal and 169 others before the Committee on petitions to the Lok Sabha is entirely unconnected with these present workmen. Their Reference Case No. 89/2006 is pending before the CGT No.1, Dhanbad for adjudication. Moreover, the workmen are getting their wages as per Minimum wages Act. It is also alleged that during the pendency of the aforesaid Reference of Sri Mantu Kant Mandal & Others on its representation by the Hon'ble Member of Parliament. Sri Basudev Acharya before the Lok Sabha Committee on whose recommendation, the Management drafted a Scheme titled as "Casual Workers, Absorption Scheme" as referred to the Government for their examination and concurrence over the matter under the consideration of the Government.

#### **FINDING WITH REASONS**

8. In the instant Reference, at the point of preliminary issue as raised by the O.P./Management as per its petition dt. 22.07.2011 in relation to the maintainability of the Reference and its rejoinder dt. 14.10.2011 filed by the Union concerned, the Tribunal as per order No. 12 dt. 10.04.2012

has decided to decide the preliminary issue with its final adjudication in the terms of the Reference after hearing both the parties over it.

In the instant reference, WW1 Shivtosh and WW2 Shyamal Kumar Mandal, on their affidavited chief for all the workmen on behalf of the Union concerned and MW1 Jay Shankar Saran, Section Officer for the OP/Management have been respectively examined.

Heard both the Learned Union Representative and Mr. D.K.Verma, Learned Counsel for the respective parties. Mr.Dilip Kr.Saha, the Union Representing as the General Secretary of the Sangh concerned has earnestly submitted that the OP/Management has not revealed nor proved the name of the specific contractors as licensee even in its Annexure- A as required under Sec.13 of the Contract Labour (R & A) Act. 1970, for the work being done by the workmen, so these workmen were not the contractor's employees, rather they are the employees/workmen of the OP/Management who have uninterruptedly been performing the same and similar duties the permanent staff of the Management performing. To him, the Management has failed to certify the amounts paid as wages to the contract Labours as prescribed under the mandatory provision under Section 21(1) of the said Act. He has to argue that the alleged muster rolls of existing contractor is a self creation of the management, just as their allegation about the workmen as the employees of the contract is a legal colourful camouflage purported to deprive the workmen of their fundamental right as guaranteed under Article 21 of the constitution of India. The further argument of the Learned Union Representative is that the Management had decided to grant core employee status to the alleged contractor's employees as per Notice dt.20.02.2007 (Annexure-B) for the interest of all Labourers and workmen but the discrimination has been dealt with these workmen contrary to the rule of law at the hands of the OP/Management. Lastly emphatic argument of Mr. Saha is that "Management" is "Industry" as held in cantena of the Judgments; as such the workmen are entitled to the regularization in view of their continuous working since their respective years 1997,1988, 2000 to 2006 by performing their job of since permanent and perennial in nature.

9. Just contrary to it, the contention of Mr.D.K.Verma, Ld Counsel for the OP/Management is that the instant Reference relates to the claim of the Union concerned for regularization of workmen Shri Madu Sudan Mahato & 13 others by the Management of Central Institute of Mining and Fuel Research (CIMFR); at the very initial stage of the preliminary issue, the OP/Management had challenged its maintainability on the ground that the CIMFR / the CSIR (Council of Scientific and Industrial Research) is a research Institute for the scientific advancement of knowledge for the interest of the Country as a whole, but not for any commercial business or trade: is such the OP/

Management is not an industry as defined us 2(j) of the Industrial Dispute Act, 1947.It was also upheld by the Hon'ble Apex Court in the case of Physical Research Laboratory Vs. K.G. Sharma reported in SCLJ 1997 (2) at page 54. So the instant alleged Industrial Dispute is not maintainable. According to Mr. Verma, so far as the merit of the case as concerned, admittedly the workmen are daily wagers who were never engaged by the Management as per the due process of law. So they are not entitled to their regularization as upheld in several leading cases such as in Uma Devi's case, (2006) (3)SSC LAB(L.S.) 7534. Liquidator Case, (2009)(1)SCC(L & S), 943 and the case of Pinaki Chatterjee,(2009)(2)(LS)259, holding the same and similar view the recruitment to a daily wager contrary to the rules against the Constitution of India is not justified. Further contention of Mr. Verma, Ld Counsel for the OP/Management is that so far as the scheme for absorption is concerned, the CIMFR was directed to submit a list of casual workers at the behest of rivalry Unions, but their names were not revealed; and the CIMFR has not submitted the list of the casual workers, as the Scheme for absorption is still pending; and thus riot any question of their regularization arose or rises.

10. On perusal and consideration of the mostly oral evidences of the both the parties as available on the case record, I find that the entire case of the Union concerned for the workmen appears to be based on the notice dt. 20.02.2007 (Annexure- B to the written statement of the workmen) and the photocopy of the Identify card of Subas Singh (one of the 14 applicants) allegedly issued by Controller of Admn. (CSIR) (Ext.W.1). But it was not issued by the CIMFR. (The Respondent); besides, it nowhere specifies the particulars of Subas as to the nature and time of his work etc. So it appears to be ambiguous; hence not pertinent to the matter of his alleged engagement for a work under the Respondent. It appears to be beyond doubt that none of 14 applicants has any proof of his regular engagement/appointment for any work of specific nature or any specific period of years in accordance with the law of the Land. Moreover, the aforesaid Notice dt 20.02.2007 (Annexure-B) relates to the production of documents/ records concerning a petition filed by Shri Mantu Kumar Mandal and 169 others before the Committee on petitions before the Lok Sabha requesting for grant of Temporary Status to daily wagers working in the Central Mining Research Institute, Dhanbad. It can never be treated as a base for regularization of these instant alleged 14 workers.

11. There is no doubt that the CIMFR is a registered society under the Registration Act affiliated the CSIR, New Delhi. It is an autonomous body under the Ministry of Science and Technology. It had its own Rule and Regulations *i.e.* CCS (CCA) Rules 1965 and the CCS conduct Rules 1964 related to the service condition of its own employees. The CIMFR simply holds research or scientific investigations nor over all development of India. It owns

no work for manufacture of any product nor any profit for any commercial purpose, so it is not an "industry" as defined in Sec.2 (j) of the I.D.Act, 1947. If there is an employment of daily wagers in exigency, it is usually effected through the contractors such the instant one ISO (International Service Organization), Kolkata. These instant persons casually employed through the contractors have worked in the CIMFR as per their contracts, and accordingly, the Management makes payment of the bills as submitted by the contractor. In such situations, these petitioners can not be the employees of the OP/Employees, as no jural relationship even in a bit existed or exists between the workmen and the Respondent for a single moment in view of their exigent employment. Even the Learned Representative for the workmen has submitted that the job of the workers was assisting to the Scientists in the Electronics of the respondent. But the versions of the both the witnesses (WW I & II) do not specify the nature of their assistance in the Electronics of the Respondent. Moreover none of the workmen has any proof of their continuous working for any calendar year as required Sec.25 B (2)(a)(ii) of the Industrial Dispute Act.,1942.

12. The materials made available in disorder and scantry manner *prima facie* but undoubtedly reveal the fact that the engagement of the petitioners was on daily wages or casual basis which comes to an end when it is discontinued as it has been held in the case of Secy. State of Karnataka Vs. Uma Devi (3) reported in 2006 SCC (L&S)7539CB (Paras 3,4,12 and 43) wherein further upheld by the Hon'ble Apex Court that when regular vacancies in posts are to be filled up a regular process of recruitment or appointment it has to be resorted to as per the constitutional scheme, but can not be done in a haphazard manner based on patronage or other consideration in respect of casual or Temporary Employee. Further, the Hon'ble Supreme Court was pleased to endorse the aforesaid view in the case of Pinaki Chatterjee Vs. Union of India reported in (2009)2SCC (L &S)(DB) (Para 14) as such: "It has also to be clarified that merely because a temporary employee or as a casual wage worker is continued for a time beyond the term of his appointment (here engagement), he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuous, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules."

13. At the point of maintainability of the Reference on law and facts, Mr. Verma, Ld.Counsel for the Respondent has to submit that the Respondent, the Central Institute of Mining and Fuel Research (CIMFR), registered under the Society Registration Act is affiliated to the Central Council of Scientific and Industrial Research (CSIR), New Delhi, so it is an autonomous body under the Ministry of Science & Technology but it is not a Public Undertaking of the Government. The CIMFR has its own Rules and Regulations related to the service conditions of its

employees, and if any dispute between the Management of the CIMFR and its employees, it is referred to the CAT for an adjudication. Further submission of Mr. Verma is that it is not any manufacture of any products; rather it simply holds researches or investigation scientifically. So the CIMFR is not an industry under the I.D.Act, as it has no earnings from any project nor any business trade etc. as defined under Sec. 2(j) of the I.D.Act, as such the instant Reference as Industrial Dispute is not maintainable in any way under the Law.

14. Whereas Mr. Shah, the Union Representative for the alleged workmen in reference to para 15 of the statement of the claim has contended that the Respondent can not blow hot and cold at the same time—their adherence to All Industrial Laws including its registration under the Contract Labour ( R & A) the one side and their allegations not as the Industry; the pleas of the Management are unacceptable, as the Instant Reference after consideration of all facts including their participation in the conciliation proceedings before the ALC(C) concerned was referred for an adjudication under I.D. Act. Further submission of Mr. Saha in reference to para 19 of the Written Counter Statement of the Management is that at this point the plea of the Management is that CSIR has filed Civil Appeal No.1342 of 2004 (CSIR & another Vs. Kishor Singh) before the Hon'ble Supreme Court on the issue that CSIR is not an industry. In the aforesaid case, the Hon'ble Supreme Court as per the interim order dt.26.10.2005 has been pleased to direct the matter to be placed on Board after in the case of State of U.P. Vs. Jaibir Singh wherein the judgment in Bangalore Water Supply & Sewage Board's case ( reported in AIR 1979 SC) has been referred to a larger Bench.

15. At the point of the word "Industry' as defined u/s 2(j) of the I.D.Act,194 [(though as per the I.D.Act (Amendment Act 1982) yet not notified], in its interpretation, the Hon'ble Supreme Court of Double Bench through Sujata Vs. Manohar in the case of Coir Board Vs Indira Devi,1998(78)FLR 847 = 1998(1)LLJ 937 has been pleased to survey all previous decisions of the Hon'ble Apex Court including the seven Judges Bench decision in the leading case of Bangalore Water, 1978 (36) FLR 266 = AIR 1978 SC 598, and passed an order of reference to the Chief Justice for constituting a larger Bench of more than seven judges if necessary, observing, in course of dealing with the aforesaid Coir Board Case, as such:

" Since the difficulty has arisen because of the judicial interpretation given to the definition of 'Industry' in the Industrial Dispute Act; there is no reason why the matter should not be judicially re-examined. In the present case, the function of the coir Board is to promote Coir Industry, open markets for it and provide facilities to make the Coir Industry's products more marketable. It is not set up to run any industry itself. Looking to the predominant purpose for which it is set up we would not call it an industry. However,



if one were to apply the test laid down by Bangalore Water Supply and Sewerage Board Case, it is an organization where there are employers and employee. The Organization does some useful work for the benefits of others. Therefore, it will have to be called an industry under the Industrial Dispute Act.

We do not think that such a sweeping test was contemplated by the Industrial Dispute Act; nor do we think that every organization which does useful service and employs people can be labelled as industry. We, therefore, direct that the matter be placed before the Hon'ble Chief Justice of India to consider whether a larger Bench should be constituted to reconsider the decision of this Court in Bangalore Water Supply and Sewerage Board."

Later on, consequent upon declination of the three Judges Bench of the Hon'ble Supreme Court to the reference sought by the two Judges Bench to a larger Bench of more than seven Judges, the Hon'ble Apex Court in the case of Central Board of Dawoods Bohra Community Vs. State of Maharastra, 2005(2)SCC 673 has been pleased to hold that it was open to the Chief Justice on a reference made by the two Hon'ble Judges of this Court to constitute a Bench of more than seven Judges for reconsideration of the decision in the Bangalore Water Case. Thereafter the Hon'ble Supreme Court of Five Judges (3 for 2) has been pleased to state that the decision of Banaglore is not a unanimous decision. In such a situation, it is difficult to as certain whether the opinion of Hon'ble Justice Krishna Iyer given on his own behalf and on behalf of Hon'ble Justices Bagawati and Desai can be held an authoritative precedent which would require no recommendation though the Judges themselves expressed the view that the exercise of interpretation done by each one of them was tentative and was only a temporary exercise till the Legislature stepped in.

The Legislature subsequently amended the definition of the word 'industry' but due to the lack of will of both the Legislative and the Executive, the amended definition for a long period of 23 years has remained dormant. Due to the stand of the Union of India that for the category of the industries excluded in the amended definition, no alternative Industrial Dispute Resolution Forum could be created, so the Central Government did not enforce the provisions of the said Amendment Act providing for a new and restrictive definition of 'industry'. Hon'ble Apex Court in the case of State of U.P. Vs. Jai Bir Singh reported in 2005 (106) FIR 190 (SC) has been pleased to observe over the interpretation of the definition of 'industry' a legal premise as premised in the judgment of aforesaid Bangalore Water Case by the Hon'ble Apex Court as such:

'A worker-oriented statute must receive a construction where conceptual keynote though must be the worker and the community, as the constitution

has shown concern for them inter alia in Articles 38,39 and 43'.

16. The entire discussions over the interpretation of definition of the term 'industry' u/s 2(j) of the I.D. Act, 1947 seems to revolve around the two factors;

"What law is and what law ought to be at the point."

Being devoid of the jurisdiction to brood over the latter, I would like to consider the nature of the work of the Respondent CIM FR, a Registered Organization affiliated to the CSIR of the Central Government of India, for determination of the issue whether the Respondent is an 'industry' in its existing terms (devoid of the Amendment still unenforced by the Central Government of India). Since the Respondent does not carry on any business, trade, manufacture for any profit nor does anything analogous to trade etc, so its claim is that the Respondent is not an industry in the aforesaid terms. But the "industry" as defined u/s 2(j) of the I.D. Act also includes these two items as well related to the employer in the first part of its definition:

- (I) Undertaking means a task or project, especially, one that is important and or difficult, SYN, Venture, and
- (II) "Calling", a strong desire or feeling of duty to do a particular job, especially one in which you help other people SYN vocation, a type of work (as simply meant in the Oxford Advanced Learner's Dictionary of Current English: A.S. Hornbly (Eighth Edition), OXFORD UNIVERSITY PRESS).

It is an acknowledged act that the Respondent (CIMER) does scientific research for advancement of scientific knowledge through scientific magazine etc. for other industries all over India. Though the nature of the job of the CIMFR Respondent appears to be regal one for the CSIR/the Govt. of India, yet separable, so the "Respondent" appears to be indubitably 'an industry' existently as defined u/s 2(j) of the I.D. Act, 1947. Hence the preliminary issue as to the maintainability of this Industrial Dispute is decided as maintainable, as the Respondent CIMFR stands as an Industry under the I.D. Act.

17. Considering over all the materials available on the case record, it is hereby, in the terms of the reference responded and accordingly awarded that the demand of Bhartiya Audhyogic Annusandhan Shramik Sangh for regularization of services of Shri Madhu Sudan (Saudan wrongly written) Singh and 13 others as per the Annexure from the Management of Central Institute of Mining and Fuel Research (CIMFR) is not only illegal and unjustified but also baseless. Hence the workmen alleged are not entitled to any relief whatsoever.

KISHORI RAM, Presiding Officer

**Annexure containing names of the workmen**

Sl. No.	Name of Applicants	Father's Name	Date of Joining	Nature of job being done
1.	Madhu Sudan Mahato	Late Sonaram Mahato	1997 Years	Lab Helper
2.	Shivtosh Sutradhar	Sri A.N.Sutradhar	2002 Years	Assisting in Electronics and Electrical works to the Scientist
3.	Subas Singh	Sri Brahma Deyal Singh	2003 Years	Assisting in Testing work
4.	Shyamal Kumar Mandal	Late Sahadeo Mandal	2003 Years	Computer work and Typing Test Report
5.	Shankar Koranga	Sri Sripati Kornaga	2003 Years	Loading, unloading Equipment
6.	Darik Koranga	Late Ranglal Koranga	2003 Years	Loading, unloading Equipment
7.	Prakash Kumar Mandal	Sri Madan Mandal	2001 Years	Plant operation and maintenance of AC Plant
8.	Kamal Gope	Late Rabilal Gope	2005 Years	Instrument Cleaning and Maintenance
9.	Nurul Hasan Hindvi	Sultan Ali	2005 Years	Assisting in Testing Fitter Type self Rescues/Chemical and Typing of Report
10.	Kapura Devi	W/o Late Kuila Das	2006 Years	Canteen Mazdoor/Kamin
11.	Jay Kumar Singh	Late Jagabandhu Singh	2004 Years	Typing of Date entry on Computer
12.	Kartik Mandal	Late Govind Mandal	1988 Years	Gardener (Mali)
13.	Ashoka Nanad Mishra	Sri Achala Nand Mishra	2000 Years	Receptionist in Guest house (CIMFR)
14.	Raju Koranga	Sri Bijay Koranga	2003 Years	Helper in maintenance and operation Audio Visual System

नई दिल्ली, 18 अगस्त, 2015

**का.आ. 1653.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कछार पेपर मिल, H.P.C. लिमिटेड, असम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, गुवाहाटी के पंचाट (संदर्भ सं० 40/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/08/2015 को प्राप्त हुआ था।

[सं एल-42012/33/2013-आईआर ( डीयू )]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 18th August, 2015

**S.O. 1653.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. Ref Case No. 40 of 2013) of the Central Government Industrial Tribunal-cum-Labour Court, Guwahati now as shown in the Annexure in the

Industrial Dispute between the employers in relation to the management of the Cachar Paper Mill, H.P.L. Ltd., Assam and their workman, which was received by the Central Government on 14/08/2015.

[No. L-42012/33/2013-IR (DU)]

P.K. VENUGOPAL, Desk Officer

**ANNEXURE**

**IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, GUWAHATI, ASSAM**

**Present:** Shri L.C. Dey, M.A., L.L.B.,  
Presiding Officer,  
CGIT-Cum-Labour Court, Guwahati.

**Ref. Case No. 40 of 2013**

In the matter of an Industrial Dispute between:—

Sri Abu Bakkar, Panchgram, Hailakandi, Assam.

—Vrs.—

The Management of Cachar Paper Mill, (CPM), H.P.C Ltd., Hailakandi, Assam.

**APPEARANCES:**

For the Workman.:	Mr. N. Dhar, Learned Advocate
	Mr. B. Malakar, Learned Advocate.
	Mr. T.U. Laskar, Learned Advocate.
For the Management :	Mr. J. Roy, Learned Advocate.
	Mr. C. Chakrabarty, Learned Advocate.
	Mr. S. Sarma, Learned Advocate.

**AWARD**

Date of Award : 31.07.2015

1. This Reference is arising out of an Industrial Dispute raised by the workman Sri Abu Bakkar, for terminating him by the Management of Cachar Paper Mills Ltd. *w.e.f.* 18.04.1990.

2. On receipt of the order No. L-42012/33/2013-IR(DU) dated 19.07.2013 from the Ministry of Labour & Employment, Government of India, New Delhi, this reference has been registered and notices were issued upon both the parties. The schedule of this Reference is as under:

**SCHEDULE**

"Whether the action of the management of Cachar Paper Mills, Hindustan Paper Corporation Ltd. (represented through the Chief Executive) in terminating the service of Shri Abu Bakkar, S/o Haji Nimar, Ali, P.O. & Vill. Panchgram, Dist. Hailakandi, Assam *w.e.f.* 18.04.1990 in pursuance of the certified Standing Order of the Company without causing service of any notice/letter of allegation and without holding departmental enquiry in the prescribed manner is justified?"

2. The brief fact of the present dispute is that the workman Sri Abu Bakkar being one of the members of the family of the land looser in the establishment of Cachar Paper Mills, Hindustan Paper Corporation Ltd. at Panchgram in the District of Hailakandi, Assam. Accordingly the workman was entitled for appointment under the establishment of Hindustan Papers Corporation Ltd. as per the Scheme of the Hindustan Paper Corporation Ltd. The workman was called for interview *vide* the call letter dated 3.11.86 issued by the Sr. Manager, Cachar Paper Project, Panchgram. Ultimately the workman was appointed as skilled worker in the Cachar Paper Project under Hindustan Paper Corporation Ltd., Panchgram *vide* CPP/PER/REC-6/1288 dated 10.04.87. Thereafter the Dy. Manager (P & A), Cachar Paper Mill, Hindustan Paper Corporation, Panchgram issued show-cause notice dated 1.3.89 against

the workman asking for explanation as to why disciplinary action should not be taken against the workman for his alleged unauthorized absence from the duty for a couple of days with interpolation in the said proposed notice. Subsequently the management as per their order dated 18.4.90 informed the workman that the alleged absence of the claimant can not be regularized even by granting extraordinary leave and accordingly the workman alleged to have lost his lien for his appointment in the Hindustan Paper Corporation Limited, Cachar Paper Mill. Ultimately the workman was dismissed from his service by Sr. Manager (P & A), Cachar Paper Mill, HPC, Panchgram without any enquiry and by an authority who is subordinate of the appointing authority of the workman, in violation of Article 311 of the Constitution of India. The workman submitted a representation dated 11.4.1990 before the Management stating that the father of the petitioner is an old aged man and lost his land for construction of the Cachar Paper Mill and the service of the workman in the said Corporation is only livelihood; and hence the workman prayed for treating the absence as leave without pay and to allow the workman to join the duty instead of terminating him from the service. Thereafter the workman submitted representation dated 4.1.2000 before the Secretary to the Govt. of India, Ministry of Labour, Govt. of India, New Delhi to dispose of the representation dated 4.1.2000 filed by the workman for referring the dispute regarding dismissal of the workman from service of the Cachar Paper Mill, Panchgram to the Industrial Tribunal or the Labour Court for adjudication. Thereafter the workman preferred a Writ Petition before the Hon'ble High Court, Guwahati. The Hon'ble High Court, as per order dated 14.2.2011 passed in the W.P. (C) No. 6151 of 2002 directed the Secretary to the Govt. of India, Ministry of Labour, New Delhi to dispose of the representation submitted by the workman before the authority concerned in accordance with the law. In pursuance of the order dated 14.2.2011 passed by the Hon'ble Gauhati High Court dated 14.2.2011 passed in W.P. (C) No. 6151/02, the Ministry of Labour, Government of India, New Delhi referred the dispute before this Tribunal for adjudication. Hence, the workman prayed for setting aside the order dated 18.4.90 passed by the Management of Cachar Paper Mills, Hindustan Paper Corporation, Panchgram, Hailakandi District, terminating the service of the workman with direction to the Management of Cachar Paper Mill, Hindustan Paper Corporation Ltd., Panchgram, Hailakandi to reinstate the workman in his service with full back wages and other service benefit available to the claimant in accordance with the law.

3. The Management contested the proceeding taking their defence in their W.S., *inter-alia*, that the workman Abu Bakkar was offered appointment in the Hindustan Paper Corporation (here in after call HPC), Cachar Paper Mill, Panchgram and accordingly the workman joined as unskilled worker on 02.06.1987 and he was allotted Code



No. 1162. But the workman Abu Bakkar was a habitual absentee from the date of his joining with effect from 02.06.1987 till December 1989 (*i.e.* during the period of 2 ½ years approx.) the workman remained absent for 356 days on different occasions. While the management had not taken any stern action against the workman at that time in spite of his aforesaid act of misconduct, rather the Management took a very lenient view with an intention to improve his habit of remaining unauthorized habitual absence from duty and thus granted him even extra ordinary leave which is generally granted to an employee as per Certified Standing Order on special circumstances. The Management has shown the leave granted showing the breakup of dates/period of 189 days leave at the first instance as under:

Nature of leave	Period	Days	Occasion
Earned Leave	01-05-88 to 05-05-88	23 days	4
	11-05-88 to 12-05-88		
	05-07-88 to 08-07-88		
	06-01-89 to 20-01-89		
Sick leave	09-11-87 to 14-11-87 to	20 days	3
	14-11-87, 01-07-88 to		
	04-07-88, 16-10-88 to		
	25-10-88		
EOL	15-11-87 to 25-11-87,	146 days	7
	12-12-87, 09-07-88 to		
	20-07-88, 26-10-88 to		
	29-11-88, 01-12-88 to		
	28-12-88, 21-01-89 to		
	04-03-89, 18-03-89 to		
	02-04-89		
Total		189 days	14

But the workman, in spite of getting ample opportunities for clarification/improvement of his attendance failed. He was also in the habit of leaving the working place without permission/leave after reporting for duty for which he was asked for explanation *vide* letter No. CPP/M(R)/Conf/88/ dated 01.04.88 issued by the then Manager (Recovery) of Cachar Paper Mill, but no explanation was submitted by him. The workman was again asked for explanation for his unauthorized absence from duty *vide* letter No. CPP/PER/E-IV/415/5993 dated 31-05-88 issued by the then manager (P&A) showing the details of absence of 59 days with effect from 26.11.87 to 15.5.88 as under:

Period of absence	No. of days	Occasion
26.11.87, 29.11.87 to 30.11.87,	59 days	9
03.12.87 to 04.12.87, 22.12.87 to		
23.12.87, 28.12.87 to 30.12.87,		
05.01.88 to 10.01.88, 13.01.88 to		

15.01.88, 17.01.88, 27.01.88,  
29.01.88, 04.02.88, 13.02.88,  
15.02.88, 15.03.88 to 16.03.88,  
23.03.88 to 24.03.88, 26.03.88,  
29.03.88 to 06.04.88, 12.04.88 to  
30.04.88, 15.05.88.

But the workman did not care to reply and continued to remain unauthorized absence from the duty. The Management has given below the details of absence of the workman from duty. The workman was once again asked for explanation for his authorized absence from duty *vide* their letter dated 1.3.89 issued by the then Dy. Manager (P&A), Cachar Paper Mill showing the details of absence of 117 days. The details of absence of 117 days is given below:

Period of absence	No. of days	Occasion
09.01.88, 17.01.88, 27.01.88, 29.01.88, 04.02.88, 13.02.88, 15.02.88, 23.02.88, 28.02.88, 05.03.88, 16.04.88 to 30.04.88 09.05.88 to 30.05.88, 22.06.88 to 30.06.88, 27.07.88 to 02.08.88, 08.08.88 to 15.08.88, 19.08.88 (1/2 day), 20.08.88 to 22.08.88, 24.08.88 to 19.09.88, 21.09.88 to 30.09.88, 05.10.88 to 06.10.88, 08.10.88 to 09.10.88, 12.10.88 to 13.10.88, 31.10.88(1/2 day), 30.11.88 and 29.12.88 to 31.12.88.	117 days	26

At that time the workman submitted his reply *vide* his letter dated 25.03.1989 and assured the management that he would not remain unauthorized absence from duty in future but the workman did not keep his assurance and he repeated the same habit and continued to remain absence unauthorisedly and that too for prolong period at different occasions as mentioned below:

Period of absence	No. of days	Occasion
06.04.89 to 09.04.89	4	1
11.04.89 to 05.06.89	56	1
10.06.89 to 11.06.89	2	1
16.06.89 to 31.08.89	77	1
16.09.89 to 20.09.89	5	1
23.09.89 to 07.10.89	15	1
11.10.89 to 15.12.89	66	1
Total	255 days	7

Thus during the period 2 ½ years of his service the workman remained unauthorized absent from duty for 581 days in 53 different occasions. Therefore, the workman was given sufficient opportunities to improve his habit of remaining unauthorized absence from duty but he did not care to avail this opportunity. As such, the management under compulsion had to issue a letter dated 18.04.90 to the workman informing him loss of his lien from service and his name was struck off from the Role of HPC, Cachar Paper Mill with effect from 18.04.90 as per provision of Certified Standing Order of the company. It is further mentioned that the workman did not obtain the sanction of leave and he continued to remain absence from duty and the prolong period of his absence could not be regularized as no leave was due at his credit as provided under Clause(d) of 20 and Clause 21 (ii) of the Certified Standing Order. Thus it is clear that the workman has abandoned his service and the HPC being the Public Sector Enterprises the welfare of the employee was taken care of adequately, but if the case of incorrigible indiscipline is allowed to be repeated without any limitation, the other dedicated employees of the Mill will be demoralized and as a result the Mill is bound to suffer causing great loss to all the employee in particular and is general. Management reiterated that the termination the service of the workman was made for the sake of the discipline in the Industry and in pursuance of the Standing Order of the Mill. The management further stated that the conduct of the workman was absolutely not in the interest of the Corporation which is evidently clear from his attendance register and for which the management was compelled to take action. Therefore, the termination of the workman is valid and no interference is called for since the workman deliberately remained absence and irresponsible for which the management had left with no alternative but to terminate the service of the workman as per the Standing Order. Therefore the management prayed to decide the issue in favour of the management of Cachar Paper Mill under the HPC. Ltd.

4. Both the parties in support of their respective plea adduced evidence. The workman examined two witnesses including himself while the management examined one witness namely Ravi Sankar Bhattacharjee, Manager, HR & ES, HPC Ltd., Cachar Paper Mill, Panchgram .

According to the workman Md. Abu Bakkar (W.W.I), in 1993 his land situated at village Panchgram was acquisitioned by the Government for establishment of Paper Mill named Hindustan Paper Corporation, Panchgram ( Cachar Paper Mill), and on the basis of his right as land loser he was called for an interview on 18.3.85 for employment of land loser along with his document relating to his land and other testimonials *vide* Exhibit-1. He appeared before the Selection Committee on 18.3.85 and he was again called for an interview before the HPC, Cachar

project for appointment to the post of unskilled worker on 10.11.86 at 10 A.M *vide* Exhibit-2. Subsequently he was appointed as unskilled worker *vide* the letter dated 10.4.87 (Exhibit-3) issued by the HPC, Cachar Project. His Pay scale was fixed at Rs.400-530/- with effect from 2.6.87 *vide* letter No. Cpp/Per/E..IV/415/20766 dated 3.6.87 *vide* Exhibit-4. In the mean time he felt ill due to some mental disease for which he remained absent for 117 days with effect from 9.1.88 to 31.12.88, for which show-cause notice was issued by the management *vide* their letter No. Cpp/per/E-IV/ 415/ 63 dated 1.3.89 asking for explanation within 7 days *vide* Exhibit-5. But due to his illness he could not attend his duty and there was no willful negligence on his part and he did not submit any explanation in reply to the said show cause notice. Thereafter the management *vide* their reference No. CPM/PER/EIV/415/3857 dated 18.4.1990 (Exhibit-6) informed him that his lien for the appointment in the Corporation had been lost . Then he submitted a representation on 26.5.90 before the management with prayer for consideration of his case sympathetically as a son of land loser treating his absence from duty as leave without pay and to allow him to join duty instead of termination *vide* Exhibit-7. But the management did not consider his representation. Thereafter he approached the Hon'ble Gauhati High Court by filing a Writ being W.P.(C) No.6151/02 and the Hon'ble Gauhati High Court directing the management to dispose of his representation if it is still pending within a period of 12 months from the date of order, and in any case, on or before 31.12.2011 *vide* Exhibit-8. The workman informed the Ministry of Labour, of the Writ Petition forwarding a copy of the order dated 14.2.2011 passed by the Hon'ble High Court in W.P.(C) No.6151/02 but no action taken by the Ministry while he issued a reminder to the Ministry of Labour, Government of India, New Delhi. Finding no reply from the Ministry the workman filed an application before the ALC (C), Silchar raising the dispute *vide* Exhibit-9. Accordingly conciliation was done at the instance of the ALC (C), Silchar and on failure of conciliation FOC report was submitted. As a result this reference has been made by the Ministry. The workman further mentioned that the management discharged him without following the any enquiry and he prayed for reinstatement along with backwages with effect from 18.4.1990.

During his cross-examination the W.W.I said that he can not read and write English and the terms and condition of his appointment letter has been read over to him of his relatives; and as per the terms of appointment he was instructed to work regularly and to perform duty with dedication maintaining discipline and decorum. He also mentioned that his condition of service is regulated by the Standing Order of HPC and that he knew that due to continuous absence without authority his misconduct which is liable to be dismissed. However he denied the

suggestion advanced by the management that he was absent without authority for 581 days from 2.6.87 to December, 1989; and that he used to leave from days regularly without obtaining permission from the authority. He admitted that he was absent for 117 days for which he submitted application before the HPC but he was not served with any show cause notice from the management due to his unauthorized absence. The workman mentioned that in the year 1990 the management issued a show cause notice against him whereupon he submitted his reply in the year 1990. He again said that in his evidence in chief he has mentioned that he has not submitted any reply to the said show cause (Exhibit-5) and also he did not submit any application as he was not mentally sound at that time. Later on the workman said that he submitted reply to the show cause marked as (Exhibit-5) *vide* Exhibit-A wherein he admitted his misconduct and that he was absent without any authority. But he did not enclose any medical certificate along with his reply to the show cause (Exhibit-A) to the effect that he along with his family members have been suffering from various diseases. He again mentioned that subsequently he filed representation *vide* Exhibit-7 wherein he also mentioned that he was absent without any authority and in Exhibit-A he promised before the authority not to remain absent in future without any authority. He mentioned that due to his unauthorized absence from duty he was removed from service and in spite of his commitment before the management; subsequently, he remained absent for which he was removed from service. The W.W.1 further said that he remained absent due to his mental illness but he has not produced any document in respect of his mental illness. He again said in his claim statement he did not make any averment regarding his mental illness, and that although he narrated the fact to his learned Advocate and he did not know the content of his claim statement in details. He denied the suggestion put forward by the management that since he admitted his guilt *vide* Exhibit-A, and hence for his removal from service the question of not giving any opportunity to be heard by holding any enquiry by the management does not arise. The workman also said that due to non receipt of any reply to his representation (Exhibit-7) he approached the Hon'ble Gauhati High Court by filing a Writ petition and his removal from service he worked as casual labourer. He also denied the suggestion advanced by the management that he was absent for 581 days without any authority for which he was removed from service, but he could not recollect if any letter dated 1.4.88 was issued by the management of HPC, Cachar asking him to show cause on the allegation that he was habitual, absconder from the place of working after reporting the duty and that on 1.4.98 he had left the plant at 7.30 A.M. without any authority of Supervisor/ASS; and that he was a habitual absentee and irregular in discharging his duties knowing the same, for which he was removed

from service; and that he was not suffering from any disease and that he had taken the false plea of absence from duty on medical ground. The workman also denied that he is not entitled to any relief as claimed. He again said that he does not know if the management granted 189 days against his absent of 581 days.

The Workman witness No.2, Md. Abdul Mannan, one of the neighbouring man of the workman stated that the workman joined as unskilled labourer in HPC in the year 1987 and in the year 1986 he also joined in the HPC Panchgram as unskilled labourer. The W.W.2 mentioned that in the year 1988 the workman remained absent for a petty long time from duty while he would meet him on the way sometimes and on asking the workman as to why he remained absent, the workman told him that he had been suffering from some illness *i.e.* whirling of his head. Then the W. W. 2 assumed that the workman had been suffering from some mental disease. In course of his cross-examination the W.W.2 stated that the workman was absent from duty for about 90 days and on his asking as to why the workman did not attend the duty the workman replied to him that he was not feeling well and the workman did not like to work. The W.W.2 again mentioned that on seeing the workman roaming hither and thither and sometimes lying on road he presumed that the workman was suffering from mental disease but he never took the workman to any Medical Officer for treatment.

5. The Management witness No.1. Sri Rabi Sankar Bhattacharjee, the Manager, HR & ES, HPC Ltd., Panchgram stated that the workman joined the Cachar Paper Mill as unskilled worker on 2.6.87 and since his joining the workman has become irregular, he would remain absent regularly. In the appointment letter (Exhibit-3) the terms and conditions of engagement of the workman given in details wherein specifically mentioned that the service condition of the workman would be governed by the Certified Standing Order of HPC and that he would be under obligation to abide by the rules and regulation of the Corporation as amended from time to time. The workman was made understand as to the terms and conditions of his appointment as well as condition of service after his joining. The workman was absent for 581 days since June, 1987, December, 1989 and out of the total absence of 581 days, 189 days have been regularized by granting extra ordinary leave, EL and sick leave to the workman. The MW.1 has proved the extract from the attendance register in respect of the workman *vide* Exhibit-B wherein Exhibit-B(1) and B (2) are the signatures of PA to DGM, HR & ES of HPC. He further stated that the show cause notice was issued on 1.4.88 against the workman regarding his unauthorized absence from the place of work *vide* Exhibit-D, & show cause notice was issued against the workman on 31.5.1988 also, for his unauthorized absence for 61 days *vide* Exhibit-E

whereupon Exhibit-E(1) is the signature of the Manager, Recovery of HPC, which he knows. The MW.1 again said that another show cause notice was issued against the workman on 1.3.89 regarding his unauthorized absence for 117 days *vide* Exhibit-F whereupon Exhibit-F(1) is the signature of Dy. Manager, P & A, which he knows. He further mentioned that the workman submitted his reply to the show cause for 117 days absence as asked for *vide* Exhibit-F, the workman submitted his reply *vide* Exhibit-A; in Exhibit-A the workman admitted that he committed misconduct and also prayed for regularization of his leave by granting EOL or any other kind of leave. The MW.1 mentioned that after submission of his reply (Exhibit-A) the workman again started absenting himself from his duty for which the management issued an order *vide* No.CPM/PER/E-IV/415/3857 dated 18.4.1990 *vide* Exhibit-G informing the workman that his lien on appointment in the HPC had been lost as per Clause-21(ii) of the Certified Standing Order at page 21, whereupon Exhibit-G(1) is the signature of Sr. Manager, P & A, HPC. He further stated that unauthorized absence is treated as misconduct *vide* Clause-28.22 (in Exhibit-H, the Certified Standing Order). The workman also submitted an explanation (*vide* Exhibit-7) dated 26.5.90 which was received by the management on 26.5.90 but the workman remained silent since then. Thereafter in the year 2002 the workman submitted Writ Petition being W.P (C) 6151/02 *vide* Exhibit-H.

During his cross-examination the MW.1 mentioned that the appointment letter (Exhibit-3) was issued by the Dy. General Manager, P & A, HPC, Cachar Project, Panchgram and the appointing authority of the workman was the Chief Executive Officer of HPC, Cachar Project who is higher in rank than the Dy. Manager, P & A; and the workman was removed from the service by the Sr. Manager, P & A who is junior to the Dy. General Manager, P & A. He denied the suggestion advanced by the workman that removal order in respect of the workman was not issued according to the provision of Clause 30 (G) of the Certified Standing Order of HPC Ltd. The MW.1 again mentioned that the workman was removed from service by the Sr. Manager P & A and the workman was appointed by Dy. General Manager, P & A as per the authority delegated to them by the Chief Executive by a Notification but he has not submitted the said Notification before the Court. He also said that he could not say whether Notice under Section 9A of the I.D.Act was issued against the workman before delegating power of authority for appointment/removal to the Dy. G.M/ Sr. Manager, P & A. He mentioned that F.R. & S.R. are applicable in certain cases but not in all cases; and the workman was appointed against the substantive post and as such he acquire the right of lien in HPC, Cachar Project. The management witness clarified that the Clause 21(ii)

marked as Exhibit-10 was deleted as per Notification order dated 25.9.91 while the workman was discharged in the year 1990. He further stated that in Exhibit-6 the workman was shown to have been absent without any authority for 392 days which could not be regularized and hence the workman was removed from service; and as per the letter dated 1.3.89 marked as Exhibit-F the total period of absence without authority in respect of the workman was 117 days while Exhibit-E shows that the workman was absent without authority for 61 days during the period with effect from 26.11.87 to 15.5.89; and that *vide* order dated 4.4.89 on the body of the application marked as Exhibit-A the unauthorized absence period in respect of the workman was regularized in extra ordinary leave. The management has admitted that no enquiry was held before discharging the workman from the service and that he did not know if the F.R. & S.R. is applicable in case of the workman ' and that the Manager (Recovery), who signed the Exhibit- D, was neither Appointing Authority nor Disciplinary Authority. He also denied the suggestion that the dates of unauthorized absence in respect of the workman as shown in Exhibit-B, Exhibit-E & Exhibit-F are contradictory and that the workman was suffering from depression and some mental disease for which he could not attend his duty regularly; and as such, the workman is entitled to the protection granted u/s 47 of the Persons with Disabilities (Equal Opportunity, Protection of Right and Full Participation) Act, 1995. The said witness for the management again stated that the Workman prayed for pardoning his misconduct and assured the management that he would not take leave without authority in future and also to regularize his unauthorized absence, but the management did not grant leave of any kind of 392 days absence, and hence, the workman was discharged from his job. He further mentioned that the representation submitted by the workman *vide* Exhibit-7 after his removal and this representation marked as Exhibit-7 was not considered by the management.

6. On scrutiny of the evidence adduced by both the sides as discussed above, it is found well established that the workman Abu Bakker being a land loser for acquisition of his land for establishment of the Cachar Paper Mill under HPC, as unskilled worker on the pay scale or Rs. 400-530/- along with other allowances on certain terms and conditions as described in his appointment letter proved as Exhibit-3, on probation initially for a period of one year from the date of appointment which may be further extended at the discretion of the appointing authority and the probation period of the workman shall not be deemed have been completed unless the workman is informed of it in writing. The workman in his evidence admitted that due to some mental disease he remained absent from duty for 117 days with effect from 9.1.88 to 31.12.88 for which show cause



notice was issued against him *vide* Exhibit-5 but he did not submit any explanation in reply to the said show cause notice. Thereafter the management *vide* their reference dated 18.4.90 marked as Exhibit-6 informed the workman that his line for the appointment in the Corporation have been lost. In the said reference dated 18.4.90 (Exhibit-6) it was mentioned that the workman was found absent from duty for 581 days in total on different occasion from 2.6.87 *i.e.* from the day of his joining till December, 1989 and out of the said 581 days only 189 days absence have been regularized and the balance 392 days could not be regularized as yet no leave is due at the credit of the workman for which the absence of the workman could not be regularized even by granting extraordinary leave. While the workman submitted representation before the management with prayer for consideration of his case sympathetically treating his absence from duty as leave without pay and allow him the duty instead of termination. In para-4 of his representation marked as Exhibit-7 the workman admitted that he used to remain absent earlier as often his old father remained ill. It is also found that his unauthorised absence of 392 days could not be regularized, and hence, he prayed for considering his case granting leave without pay. The workman undertook that no further leave without permission would be taken by him and in case he was found remaining absent without permission he should not approach the management with any further prayer. There is nothing on record to show that the workman did submit any medical certificate to the effect that he along with his family member had been suffering from various diseases and more particularly he was suffering from mental disease also there is not mention in his representation dated 25.3.89 *vide* Exhibit-A that the workman had been suffering from mental disease. The workman in his evidence mentioned that he was not served with any show cause notice from the management due to his unauthorized absence, while the management witness No.1 has been able to prove that show cause notice dated 1.4.88 *vide* Exhibit-D was issued against the workman asking the workman as to why he had reported for duty in "A" shift duty on 1.4.88 and left the Plant at 7-30 A.M. without permission from the Supervisor and that on earlier occasions the workman absconded from the place of work after reported in duty. The workman was also served with the notices *vide* Exhibit-E & Exhibit-F asking explanation from the workman for his unauthorized absence from duty with effect from 26.11.87 to 15.8.88 and 9.1.88 to 31.12.88 totaling 61 days + 117 days respectively. The workman in his reply to the show cause notice dt. 1.3.89 admitted his unauthorized absence and prayed for pardon for his misconduct with assurance to the management that he would not take any leave without application for leave in future. Thus the statement of the workman that he did not receive any show cause notice regarding his unauthorised absence is found

not believable. The evidence on record shows that out of the total absence of 581 days, 189 days have been regularized by granting extraordinary leave, EL and Sick leave as mentioned in the reference No. CPM/PER/E-IV/415/3857 dated 18.4.90 proved as Exhibit-6. The MW.1 has categorically mentioned that after submission of his reply (*vide* Exhibit-A) the workman again started absents from his duty for which the management issued an order *vide* Exhibit-G stating the allegation of remaining absent from duty without authority and also the habit of leaving the place of work without permission from the competent authority; and that explanation was called for on 1.4.88, 31.5.88 and 1.3.89 by the management but the workman did not care to reply to the notice dated 1.4.88 and in spite of replying to the show cause notice dated 1.3.89 with prayer for pardon and assurance that the workman would not take any leave without prior permission in future, the workman had continued to remain absent unauthorisedly; and thereby the lien on the appointment of the workman in the management Corporation lost. Thus it is clear that the allegation of the management against the workman regarding his unauthorized absence from duty is proved. The management witness No.1, in support of his contention has relied upon the provision of Clause 21(ii) of marked as Exhibit-H(1) wherein it has been mentioned that the absence without permission for more than 8 days will be treated as voluntary abandonment of service without formal notice; and the names of such workers would be removed from the roll of the Company. He also referred the Clause-28.22 the amendment of the term "misconduct" as under:

" 28—Acts and Misconduct :—

Without prejudice to the general amendment of the term misconduct the following acts and omission on the part of a workman shall be treated as misconduct.

\*\*\*\*\*  
\*\*\*\*\*

28.22 Unauthorised absence from place of work after reporting for work or leaving work without permission or loitering during or after working hours."

7. The management justified their action to discharge the workman from service relying upon the provision of Certified Standing Order of HPC Ltd. on the ground of misconduct committed by the workman.

In Clause 21(1) of the Certified Standing Order proved in original *vide* Exhibit- 10 it is provided that workman shall not absent himself without prior permission/leave, if any workman remains absent without prior permission, will be marked absent in the Attendance Register/Punch Card/ and it will render him liable to disciplinary action .

In course of argument Mr. B. Malakar, learned Advocate for the workman submitted that the decision of striking off the name of the workman from the roll of the Corporation in pursuance of Clause 21(ii) of the Certified Standing Order was approved by the then Dy. Manager and the then Sr. Manager had just communicated the decision of the management to the workman regarding loss of his lien of his appointment in the HPC, but such an action of the management is against the provision of 21(1) of the Certified Standing Order as well as the violative of Articles 14, 21 and 311 of the Constitution of India as well as the principle of natural justice. Mr. Malakar argued that the workman was removed from the roll of the Corporation without holding any domestic enquiry and such action of the management is illegal against the principle of natural justice. In support of his contention Mr. Malakar, Learned Advocate relied upon *Sri Purnendu Chakraborty —Vrs—Hindustan Paper Corporation Ltd. and others*, reported in 1995 (1) GLT 60, wherein it was held that automatic termination under Certified Standing Order for absence without or beyond the period of sanctioned leave as provided under Clause 21(ii) of the said Certified Standing Order is illegal in as much as, the principle of natural justice must be read into the Certified Standing Order of the said Corporation; and that the termination under Certified Standing Order without holding any domestic enquiry is of violative of Articles 14, 21 of the Constitution of India. Mr. Malakar, also pointed out that the workman both in his claim statement as well as in his evidence stated that due to his mental illness he could not attend his duty and there was no intention to remain absence from duty on the part of the workman and as such, the lien of the workman to the appointment to the post of unskilled labourer in the management Corporation was withdrawn by the management illegally. He also mentioned that u/s 47 of The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 provided that no establishment shall dispense with, or reduce any rank, an employee who acquires a disability during his service, provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits; provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier. In this connection Mr. Malakar also referred the case of *Krushnakanta B. Parmar—Vrs—Union of India and others* reported in (2012) 3 SCC 178 and *Reena Rai—Vrs—State of Haryana and others*, wherein it was held that if the absence is due to compelling circumstances under which it is not possible to report for or perform duty, such absence can not be held to be willful; absence from duty without any application or prior permission may amount to unauthorized absence but it does not always

mean willful; there may be different eventualities due to which an employee may abstain from duty, including compelling circumstances beyond his control like illness, accident, hospitalization, etc. but in such case the employee can not be held guilty of failure of devotion to duty or behavior unbecoming of a government servant.

In *Reena Rai* case as mentioned above it was held that the Appellant's dismissal from service without assigning any reason in the dismissal order as to why it was not reasonably practicable to hold regular departmental enquiry was ultra vires to the provision of Article 311.

Mr. Shibanu Sharma, learned Advocate for the management vehemently objecting the submission of his learned counter part submitted that the workman specifically admitted his misconduct in Exhibit-A with promise not to remain absent in future without authority, yet he remained absent in spite of his commitment before the management. He also added that the workman did not care to the show cause notices issued by the management on repeated occasions *vide* Exhibit-D, Exhibit-E and Exhibit-F and lastly the lien of the workman to the appointment as unskilled labourer was lost as per the provision of Certified Standing Order [Clause 21(ii)]. Mr. Sarma further submitted that the workman himself admitted his misconduct and in such circumstances no domestic enquiry is necessary as such, the action of the management in terminating the service of the workman is not illegal. In this connection Mr. Sarma relied upon *Gujrat Mineral Development Corporation—Vs—P.H. Brahmabhatt* published in (1974) 3 SCC 601, wherein it was decided that when an employee remained absent without getting his leave sanctioned previously and did not care for the rules and was insolent in correspondence then termination of his service was justified. In justifying his plea domestic enquiry in the present case is not necessary, Mr. Sarma, learned Advocate, again, referred the decision in *Vice-Chairman, Kendriya Vidyalaya Sangathan and Another —Vs—Girdharilal Yadav* published in (2004) 6 SCC 325 (para-11), wherein it has been clearly observed that facts admitted need not be proved.

8. From my above discussion it is found that the evidence on record clearly established the allegations of unauthorized absence against the workman raised by the management. The act of Misconduct committed by the workman is found admitted by the workman who remained absent without any authority for 581 days on different occasions and out of the said period of absence only 189 days have been regularized and the balance 392 days could not be regularized due to non-availability of any kind of leave at the credit of the workman. The workman in his evidence in chief categorically mentioned that he was in receipt of the show cause notice dated 1.3.89 (Exhibit-5) but he did not submit any explanation in reply to the said show cause notice.



The Hon'ble Supreme Court in *D.K. Yadav—Vrs—J.M.A. Industries Ltd.* reported in 1993 (3) SCC 259 held that the employer has a right to terminate the service of employees under him, and the Certified Standing Orders have statutory force, and therefore, the same must be in consonance with the principle of natural justice and mandate of Article 14 & 21 of the Constitution of India. It is also observed by their Lordships that automatic termination under Certified Standing Order on any absence without or beyond the period of sanctioned leave for more than 8 days, the principle of natural justice and duty to act in just, fair and reasonable manner must be read into the Standing Orders; and the termination under Standing Orders without holding any domestic enquiry or offering any opportunity to the workman was held to be violative of principle of natural justice and Articles 14 and 21 of the Constitution.

In *DTC—Vrs—DTC Mazdoor Congress* reported in 1991 (Suppl.) (1) SCC 600 the Hon'ble Supreme Court in Constitution Bench, per majority, held that termination of the service of a workman giving one months notice or pay in lieu thereof without enquiry offended Article 14; the order terminating the service of the employees was set aside. It is thus well settled law that the right to life enshrined Article 21 of the Constitution would include right to livelihood. The order of termination of service of an employee/workman vitiates with civil consequences of jeopardizing not only his/her livelihood but also career and livelihood of dependents. Therefore, before taking any action putting an end to the tenure of an employee/workman fair play requires that a reasonable opportunity to put forth his case is given and domestic inquiry conducted complying with the principles of natural justice.

The management witness No.1 although in his evidence categorically mentioned that the workman was a habitual absentee and the workman would leave the place of work without any authority and since his joining on 2.6.87 the workman became irregular. The MW.1 mentioned that the workman was absent for 581 days from June, 1987 till December, 1989 and altogether 189 days absence has been regularized by granting Extraordinary leave, EL, Sick leave. The evidence also shows that the workman was issued show cause notice on different occasions and lastly in his reply the workman admitted his misconduct due to his absence from duty without any authority for such a long period. From the appointment letter marked as Exhibit-3 shows that the workman was appointed as unskilled worker on the basic pay of Rs. 400 to 530 on some terms and conditions *vide* Exhibit-3. The evidence of management witness No.1 and the document proved by the management *vide* Exhibit-A, Exhibit-B, Exhibit-C Exhibit-E & Exhibit-F find supports the contention of the management as to the habit of regular absentee and absconding from the place of duty without authority.

Further the plea of the workman that due to his mental illness he could not perform his duty regularly, is also found no support by any evidence on record although the workman witness No.2 mentioned that he sometimes found the workman on the way while he asked the workman as to why he remained absent, then the workman told him that he had been suffering from some illness & the workman was not willing to work, & from this version of the workman the WW.2 assumed that the workman had been suffering from some mental disease. This testimony also found not at all reliable to arrive at a conclusion that the workman was suffering from any mental disease as such, the argument raised by the learned Advocate for the workman that the workman is entitled to the protection provided u/s 47 of The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 is not found relevant.

9. From my above discussion and the findings arrived at as above, it is crystal clear that the workman since after his joining in service as unskilled worker on 2.6.87, remained absence regularly for a 581 days upto December, 1989. It is also found well established that the workman was in the habit of leaving place of work without any authority on several occasions; and that the workman inspite of receiving notice and after regularization of his unauthorized absence granting EOL, etc. by the management the workman remained absent. According to the management the lien of appointment of the workman in the Cachar Paper Mill Project, Panchgram under HPC has been lost in terms of the Certified Standing Order of the HPC. However the management failed to take necessary action against the workman in terms of Clause 22(i) of the Certified Standing Order wherein it has been clearly mentioned that if any workman remain absence without any permission will be marked as absence in the Attendance Register/Punch and is liable to disciplinary action. The Management also have violated the principle of natural justice as well as the provision of Article 14, 16 and 21 of the Constitution of India. Although the management in their W.S. took the plea that the workman inspite of getting sufficient opportunities to improve his habit of remaining unauthorized absence from duty he did not care to avail this opportunity, and hence, the management under compulsion treating the absence of the workman as voluntary abandonment of service, the name of the workman was removed from the roll of the Company; this plea can not be entertained since no action of the management which offended the basic principle of the fundamental Rights granted by the Constitution of India as well as the principle of natural justice can not be entertained. Under the circumstances stated as above it can safely be held that the action of the management in terminating the service of the workman Sri Abu Bakkar is illegal.

10. In the result, this reference is decided in negative against the management. Accordingly the workman is allowed to be reinstated with a view to afford him an opportunity to rectify himself in future. Considering the conduct of the workman as to his regular absence from duty as well as leaving of the place of work without prior authority and the opportunities given by the management to rectify his acts of misconduct in different manner on different occasions as mentioned in my foregoing discussions; and also his prolong absence after filing his representation and regularization of a portion of his unauthorized absence by the management granting EL, EOL, Sick leave, etc., I find no ground to consider to allow the workman any back wages as prayed for, since it is found well established that he has committed gross misconduct. Accordingly this reference is disposed of on contest without any cost.

Given under my hand and seal of this Court on this 31st day of July, 2015 at Guwahati.

L.C. DEY, Presiding Officer

नई दिल्ली, 18 अगस्त, 2015

**का.आ. 1654.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 02/03) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/8/2015 प्राप्त हुआ था।

[सं. एल-12012/195/2002-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 18th August, 2015

**S.O. 1654.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 02/03) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 18.08.2015.

[No. L-12012/195/2002-IR(B-1)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

**BEFORE SRI SHUBHENDRA KUMAR, HJS, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOR COURT, KANPUR**

**Industrial Dispute No. 02/03**

**Between-**

Sri Shyam Karan Ananad,  
Son of Sri Sheo Ram,

58Z/5-B Ganga Nagar,  
Circular Road,  
Allahabad.

And

The Deputy General Manager,  
State Bank of India,  
Zonal Office,  
Allahabad.

#### AWARD

1. Central Government, Mol, New Delhi, vide notification No. L-12012/195/2002-IR(B-1) dated 27.01.03, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of management of State Bank of India, in awarding punishment of dismissal from service of Sri Shyam Karan Anand, w.e.f. 10.11.99, is legal and justified? If not to what relief the workman is entitled to?
3. The case of the workman in short is that he joined the bank at the post of clerk-cum-cashier on 11.10.83. During the course of his employment the work and conduct of the workman ever remained commendable. The workman was placed under suspension by the opposite party bank on some extraneous considerations with effect from 30.05.94 and the opposite party also lodged a FIR with the police under section 406, 419 and 420 IPC on 03.07.96. The bank also took up the workman under disciplinary action by issuing charge sheet dated 08.08.96, which proceeded exparte and ultimately culminated into the dismissal from the service of the bank by order dated 10.11.99, issued by the disciplinary authority and against this the workman also preferred an appeal before the appellate authority which also culminated into rejection by order dated 29.03.2000 passed by the appellate authority. It has been claimed by the workman that prior to issue of charge sheet the bank did not conduct any preliminary inquiry, no complaint was given by the customer of the bank against him, mere using doubtful integrity in the suspension order is not sufficient to place an employee under suspension and at least he must know the reasons for placing him under suspension so as to challenge the suspension order before the appropriate authority designated under service rules and as such the workman has been prevented from challenging the legality of suspension order as such the same is illegal and not tenable. On the basis of errors quoted above in the suspension order, the workman would be deemed to be in regular service entitling him to his full pay and allowance for the period of his suspension.
4. The workman by referring relevant provisions of service rules has pleaded that the bank should have

waited for one year and in case the workman has not been put on trial within a year from the date of lodging FIR it is only after that the bank was competent to deal the workman according to the provisions of disciplinary rules, but in the case the bank lodged FIR against the workman on 06.07.96 and issued charge sheet to him on 08.08.96 and started inquiry proceedings against the workman. This process adopted against the workman is wholly dehorning the rules of disciplinary action and on the sole ground the whole action of the bank against the workman in dismissing him from the service is illegal and cannot be sustained in the eye of law inasmuch it is premature. At least bank should have waited for one year according to disciplinary rules and it only when the workman is not put on trial before criminal court within such period it was certainly open to the bank to deal the workman under disciplinary action without waiting the final outcome of the criminal trial. In this regard the workman has referred para 19.4 of 1st Bipartite Settlement in his claim petition.

5. The workman has also challenged the action of the bank with regard to the procedural aspect of the matter which at present is not necessary to be detailed in view of the order dated 04.04.2014 passed in petition No. 8145 of 07 by Hon'ble High Court, Allahabad.
6. Lastly it is alleged by the claimant that the action of the bank whereby he was dismissed from the service of the bank be set aside and he be reinstated in the service of the bank with full back wages, continuity of service and with all consequential benefits.
7. The bank filed its reply against the claim statement filed by the workman in which the entire allegations of the workman been denied by the bank by alleging that the inquiry conducted against the workman was according to the principle of natural justice, the workman was given ample opportunity to attend the inquiry but he deliberately failed to avail such opportunity, therefore, the inquiry officer was having no option but to conclude the inquiry against the workman and findings were recorded against the workman by the inquiry officer and the workman has rightly been awarded punishment of dismissal from service by the disciplinary authority. Lastly it is pleaded that the claim of the workman is devoid of merit and is liable to be rejected.
8. That after exchange of pleadings between the parties both contesting parties have adduced oral as well as documentary evidence in support of their respective cases. Whereas workman has examined himself as W.W.1, bank has examined Sri S. K. Srivastava, as M.W. 1 who has been the presenting officer and the enquiry officer Sri R. N. Sarabhai, enquiry officer as M.W.2.
9. My learned predecessor, after hearing argument of both the parties, had rendered his award on 26.10.06 in favor of the workman and against the bank.
10. The bank being aggrieved by the award of this tribunal challenged the legality and propriety of the award by filing a Civil Misc. Writ Petition No.8145 of 2007 before the Hon'ble High Court, Allahabad, which was finally decided by order dated 02.04.2014 in which the award of the tribunal was set aside partially to the extent that when the tribunal had held that inquiry was vitiated it was incumbent upon the tribunal to have granted opportunity to the bank to prove the charges. With the above observations the matter was remitted back to this tribunal to decide the matter afresh.
11. On the application of the workman moved on 25.04.14, the tribunal issued notice to the bank fixing 9th July, 2014 for the hearing of the case and the management was given opportunity to prove the charges as set up against the workman.
12. Bank has examined Sri Hari Shanker Lal Srivastava, M.W.1, Sri Rama Kant Mishra, M.W.2, Sri Jamuna Prasad, M.W.3 who is account holder of saving bank account and Sri Siddhesh Kumar Srivastava as M.W.4 to prove the charges before this tribunal.
13. It is pertinent to mention here that the evidence of M.W.4 was recorded on 06.02.15, but as none was present from the side of the workman to cross the witness therefore, opportunity was closed by the tribunal.
14. It may be pointed out here that that the workman stopped attending the proceedings of the case after 15.01.15, for the reasons best known to him.
15. The bank during the course of evidence of the management witnesses have also filed original records connected with the charge sheet and have tried to prove the charges with the help of the original documents.
16. As none appeared for workman to argue the case, arguments of the management were heard.
17. Perusal of record reveals that the charge sheet was given to the workman with regard to 21 counts. It is clear from the record that the disciplinary authority concurred with the report of the enquiry officer and he found that the enquiry officer in his finding has held that charge No. 6, 8, 12 and 14 are proved whereas charge No. 1 to 5, 10, 13, 15 to 17, and 21 are partly proved and charge No. 7, 9, 11 and 18 to 20 are not proved. It has also been found that the bank has suffered a loss of Rs.453227/- due to the fraudulent transaction perpetrated by the workman for deriving personal gain and misappropriation of banks fund in such a way which amounts to moral turpitude and

decided to dismiss the workman without notice in terms of para 521(5) of the Shastri Award and para 18.28 of Desai award and also ordered that the period spent by the workman as suspended will be treated as such and no salary and allowances except the subsistence allowance already paid will be payable and further decided to forfeit the gratuity payable to the worker for the loss suffered by the bank.

18. Workman filed an appeal before the appellate authority which was also rejected.
19. The representative for the bank during the course of argument has conceded that the bank has only lead evidence before the tribunal to prove charge No.6, 8, 12 and 14 which were found proved by the enquiry officer and has also conceded that no evidence shall be adduced for remaining charges which were found partly proved or not proved by the enquiry officer.
20. Charge No.8 against the worker read as under—

**Account No. 48468 of Sri Jamuna Prasad.**

You fraudulently obtained payments through above account by means of undernoted forged withdrawals—

Date	Amount
15.06.93	1,200.00
24.06.93	800.00
28.10.93	2,000.00

Further you provided unauthorized credit of Rs. 3000/- on 15.04.91 by forged debit raised in the account of another depositor viz., Sri Chandra Prasad SBA/c No.47029.

21. Management on this charge has examined Sri Jamuna Prasad, M.W.3, who was the account holder of A/c 48468 who has also stated on oath that he has his account in Personnel Banking Division, at main branch of the bank at Allahabad, which is still in operation. He used to go to the bank for making deposits and withdrawals personally. After perusing paper No. 1/3 and 1/4 he stated that these papers do not bear his signatures and he did not go to bank on the dates 15.06.93 and 28.10.93. He used to submit his pass book along with withdrawal form in the bank. He has also filed his pass book through list 2/1 and it is paper No.2/2. There is no entry of Rs.1200/- in the pass book on 15.06.93 and also there is no entry of withdrawal of Rs.2000/- on 28.10.93. He has also no acquaintance with any Chandra Prakash. He has never given Rs.3000/- to Chandra Prakash for depositing in his account. He visited the branch on 15.04.91 for withdrawal of Rs.3000/- and in his pass book balance was shown Rs.3132.75, but there is no entry made in his pass book for withdrawal of Rs.3000/-. In his pass book an entry

of withdrawal was being done by Sri S K Anand. When witness went to bank on 15.04.91, for withdrawing an amount of Rs.3000/- it came to his notice through the bank that no sufficient balance is lying in his account despite the fact that Rs.3000/- was entered in his pass book, then he met branch manager and informed everything. Total amount of Rs.8000/- was withdrawn wrongly from his account which was given to him by the bank and thus the account was adjusted. He has also proved his affidavit paper No.1/39, which was filed by him in the court.

22. In his cross examination he has proved his identity by showing his driving license to the representative for the worker. He has further deposed that he has only one account in the bank and his account No.48468. He has stated that he only recognizes the worker. For wrong withdrawal of Rs.8000/- from his account he has made oral complaint to the branch manager. He has further deposed that paper No.1/39 was prepared by the bank and he has only signed it.
23. In support of charge No.8 M.W.1 Sri Hari Shanker Lal Srivastava, Dy. Manager, PB Division, at Main branch of the bank has stated that account No.48468 relates to Sri Jamuna Prasad. He has examined withdrawal form dated 15.06.93 and 8.10.93 relating to account holder Sri Jamuna Prasad and stated that Sri S. K. Anand has made posting and received amount mentioned in the withdrawals forms. He has further stated paper No.3 of the list is the original of debit voucher and on it Sri S. K. Anand has made his initials and transferred the amount in account No.48468 relating to Sri Jamuna Prasad. These documents are paper No. 1/3 to 1/6. He has also stated that original ledger sheet is paper No. 1/7-1/8.
24. Therefore, from the evidence adduced by management as above it is very much clear that on 15.06.93 and 28.10.93 worker has fraudulently withdrawn an amount of Rs.1200 and Rs.2000/- by filling forged payment vouchers and by making fake signatures of Sri Jamuna Prasad for himself and has also made unauthorized credit of Rs.3000/- on 15.04.91 by raising forged debit entry in the account of another depositor.
25. Therefore, from the above it is clear that charge No.8 is found proved against the worker.
26. Now before proceeding further to see other charges it is pertinent to mention that no other account holder was produced by management and M.W.4 Sri Siddhesh Kumar Srivastava, Chief Manager, Main Branch has been produced who has stated that account holder Sri R N Dohrey was sent a notice by the bank which was returned back with the endorsement that he had left the house. He has further stated that Sri Mahanad Messey was also called upon for his



evidence and his son had informed that Sri Messey had expired. Further he stated that account holder Smt. Shyama Devi was also sent a letter and bank officials also sent at her residence, but her family member has shown her inability for attending the court at Kanpur due to her illness. He has also filed papers in support of his statement which are paper no.3/2-3/6.

27. Management representative has contended that although bank could not produce other account holders but fraudulent act of worker in making false entry in ledger book and withdrawing the amount unauthorizedly from the account of account holders is proved by Sri Hari Shanker Lal Srivastava M.W.1 and by Sri Rama Kant Mishra, M.W.2.
28. As the management has adduced evidence of its two officers M.W.1 and M.W.2 to prove charge No. 6,12 and 14 leveled against the workman, therefore, it would be proper to scrutinize the evidence collectively for these charges.

29. Charge No. 6, 12 and 14 reads as follows—

30. **Charge No. 6- Account No.48899 of Sri R N Dohrey**

The above account holder who used to deposit his pension bills to you across the counter for credit of his account gave you under noted bills for credit to his S/B Accounts but these were not credited to his account. However, credit entries to this effect were made by you in his saving bank pass book with a view to covering up the misappropriation of the amount.

Date	Cr.
23.01.91	520.00
04.05.91	1373.00
06.06.91	1373.00
05.03.93	1593.00
26.03.92	1593.00
03.06.92	1693.00
23.11.92	1736.00
08.01.93	1736.00
14.01.93	1736.00
15.02.93	1892.00
04.10.93	1135.00
08.03.94	2126.00

Further you have made the following fictitious credit entries into the account of Sri Dohrey.

Date	Amount
22.01.93	936.00
09.02.93	1100.00
16.02.93	1000.00
11.03.93	1500.00
03.04.93	200.00
22.07.92	5000.00

Thus the bank is required to pay a hefty amount to the account holder due to your fraudulent action.

31. **Charge No. 12 Account No. 49208 of Smt. Shyama Devi.**

You have fraudulently raised undernoted debit in the account and transferred the amount to other saving bank accounts wherefrom fraudulent withdrawals were made by you to make good the amount of withdrawals tendered by the account holders.

Date	Amount	Amount transferred From a/c No.	Amount Transferred to A/c No.
24.03.92	Rs.10000/-	49092	49208
23.10.91	Rs. 5000/-	49208	47029

The following fictitious debit has been raised by you in the above S/B account (49208) in an unauthorized manner with a view to cheating the bank and the account holder.

Date	Amount
08.08.91	2800.00
13.08.91	1500.00
19.08.91.	1400.00
27.08.91	2000.00
04.09.91	2500.00
09.09.91	2000.00
16.09.91	800.00
16.10.91	2400.00
22.11.91	2000.00
16.12.91	1000.00
30.12.91	2000.00
25.01.92	2500.00

You also withdraw fraudulently Rs.3000/- on 19.12.89 from this account forging the signature of the depositor on withdrawal form.

32. **Charge No. 14 - S/B Account No. 47976 of Sri Mahanand Messey.**

On the 4th Feb, 91 a sum of Rs. 3000/- was debited to the above referred account and credited to the saving bank account No. 48047 in the name of Smt. Gayatri Devi. Both debit and credit vouchers were prepared and posted by you by forging the signatures on the debit voucher.

33. As discussed above the management could not produce account holder due to non availability of R. N. Dohrey, due to death of Mahanand Messey and due to un-ability and sickness of Smt. Shyama Devi.

34. In this regard the management has adduced evidence of M.W.1 Sri Hari Shanker Lal Srivastava who was posted as Deputy Manager at bank's main branch during the period April 91 to December 1996. He has

deposed that worker was working as clerk cum cashier in the bank. He was summoned in the inquiry then he came to know about the fraud done by the worker. He has deposed that charge No.12 relates to the account No. 49208 of Smt. Shyama Devi. Paper No.1/10 to 1/20 are withdrawal forms of this account and amount mentioned in withdrawal forms are in the hand writing of worker in the ledger sheets who has also put his initials and on all the withdrawal forms. Sri S K Anand has made the signatures on the reverse side for receiving payments. Paper No.1/21 is the original debit voucher dated 23.10.91 which was debited in the hand writing of Sri S K Anand for the amount of Rs.5000/- who has also put his initials. Paper No.1/22 is original transfer voucher dated 23.10.91 by which Rs.5000/- was credited in the account by Sri Anand. It was done in the light of paper No. 1/21 debit voucher. Paper No. 1/23 is the original debit voucher dated 24.03.92 through which Rs.10000/- was debited to account No. 49092 and posting was done by Sri Anand. Paper No.1/24 is original transfer voucher dated 24.03.92 through which Rs.12000/- was credited in the account No. 49208. This credit entry is in the light of paper No.1/24 is done on paper No.1/26 and this is the original sheet of account No.49092.

35. He has also stated that he is aware of full and initial signatures of the entire clerk working in the branch as he used to check the day book and various entries made in the ledger sheet and vouchers. He has also proved attendance register of staff for the period from June 91 to May 92 to prove the presence of the worker which is paper No. 1/27.
36. In his cross examination he has also supported the case of the bank and nothing has come to create doubt on his evidence.
37. Besides this management has examined M.W.2 Sri Rama Kant Mishra who was also posted a Deputy Manager in P B Division from 01.9.90 to 1997. He also deposed that in paper No. 1/21 is the ledger sheet and Sri Anand has made his initials and also on paper No.1/22 which is credit voucher in which entries were made by Sri Anand and he has also stated that on paper No.1/23 ledger sheet and paper No.1/26, entries of debit for Rs.1000/- is made by Sri Anand on the ledger sheet. The amount which was drawn from the account of Smt. Shyama Devi was paid by the bank.
38. Regarding charge No. 6 he has stated that all the entries mention in charge No.6 are not made in ledger sheet paper No.1/34 to 1/37 and it was the duty of Sri Anand. Paper No.1/37 dated 09.02.93, paper No.1/32 dated 16.02.93, paper No.1/33 dated 03.04.93 are deposit slip which was signed by Sri Anand and he has no right to receive the cash for depositing it in bank and they are also not signed by cash officer, through vouchers 1/31-33 forged credit entries are made in paper 1/34 to 1/37. Sri Anand has signed credit vouchers paper No.1/31 to 1/37. Sri Anand has signed credit vouchers 1/31 to 1/37 as depositor. For this wrongful act of Sri Anand bank had to compensate Sri R N Dohrey who has given affidavit in the bank. Paper No. 1/29 related to Gayatri Dubey and paper No.1/30 regarding Mahanand Messey entries of debit in the ledger sheet is done by Sri Anand and also on paper No.1/29 Sri Anand has signed as depositor on credit slip. For this illegal act of Sri S K Anand bank had to compensate Sri Mahanand who had also filed affidavit.
39. This witness has been cross examined by authorized representative for the worker who has supported the case of the bank and nothing has come out in his testimony to create any doubt.
40. Although account holder Sri R N Dohrey, Sri Mahanand Messey and Smt. Shyama Devi could not be produced before this tribunal for recording their evidence and reasons for their non production has been explained by M.W./4 Sri Sidhesh Kumar Srivastava, which appears to be sufficient, but M.W.1 and M.W.2 in their evidence has proved that Sri S K Anand has withdrawn the money from the account of above account holders by forged and fake, withdrawal forms and has received the money himself by making his signature on the withdrawal forms. It is further proved that after debiting the amount in the account of account holders, he has given credit entries from the accounts of other account holders and has made false credit and debit entries in the respective ledgers. It appears that he has started business of withdrawing the amount from one account and to make good of this debit he credited the amount of other account holders.
41. Therefore, charge No. 6, 12 and 14 leveled against him stands fully proved.
42. Although none appeared on behalf of worker to make any submission at the time of arguments, but considering the gravity of charge proved against Sri Anand, I do not find any reason to interfere in the punishment of dismissal from service awarded to him by the disciplinary authority and upheld by the appellate authority and the punishment given to the worker appears to be legal and justified.
43. Having concluded that charge No.8, 6, 12 and 14 have been found to be proved against the workman Sri S K Anand, therefore, it is held that the action of the management of State Bank of India in awarding punishment of dismissal from service of Sri Shyam Karan Anand, w.e.f. 10.11.99, is legal and justified and he is not entitled for any relief.



44. Reference is answered accordingly.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 18 अगस्त, 2015

**का.आ. 1655.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट (संदर्भ संख्या 58/13) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/08/2015 को प्राप्त हुआ था।

[सं० एल-12012/88/2012-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 18th August, 2015

**S.O. 1655.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 58/13) of the Central Govt. Indus. Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial dispute between the management of State Bank of India and their workman, received by the Central Government on 18/08/2015.

[No. L-12012/88/2012-IR(B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

**BEFORE SRISHUBHENDRA KUMAR, HJS,  
PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
KANPUR**

**Industrial Dispute No. 58 of 13**

#### Between

Sri Rakesh Kumar Tiwari,  
Son of Sri Jagat Narain Tiwari,  
C/o Sri O. P. Mathur,  
117/36 K, Sarvodaya Nagar,  
Kanpur

#### And

The Zonal Manager  
State Bank of India,  
Mall Road,  
Kanpur.

#### AWARD

1. Central Government Mol, New Delhi, *vide* notification No. L-12012/88/2012-IR-(B-1) dated 07.05.13, has referred the following dispute for adjudication.
2. Whether the action of the management of State Bank of India in terminating the services of Sri Rakesh Kumar

Tiwari son of Sri Jagat Narain Tiwari workman in the year 1981 and not considering his name for re-employment while re-employing others including the recruitment of fresh hands is just fair and legal? If not to what relief the workman concerned is entitled to?

3. After receipt of reference order registered notices were issued to the parties connected with the dispute and both sides appeared and filed their authorities to represent the case. The representative for the worker sought several adjournments on one reason or the other for filing statement of claim on behalf of the workman.
4. When the case was taken up for hearing on 19.05.15, representative for the bank was present but none appeared for the workman nor was any claim statement filed on his behalf. By a bare perusal of the order sheet it is quite clear that the reference is pending unnecessarily 18.09.13 and it also reveals that the workman appears to be not interested in prosecuting the reference made to this tribunal on his behest.
5. It is therefore, clear that the tribunal is left with no other option but to decide the reference against the workman for want of pleading and proof.
6. Reference is answered accordingly against the workman.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 18 अगस्त, 2015

**का.आ. 1656.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार काशी गोमती समपत ग्रामीण बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट (संदर्भ संख्या 108/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/08/2015 को प्राप्त हुआ था।

[सं० एल-12011/53/2013-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 18th August, 2015

**S.O. 1656.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 108/2013) of the Central Govt. Indus. Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial dispute between the management of Kashi Gomti Samyut Gramin Bank and their workman, received by the Central Government on 18/08/2015.

[No. L-12011/53/2013-IR(B-I)]

SUMATI SAKLANI, Section Officer

**ANNEXURE**

नई दिल्ली, 18 अगस्त, 2015

**BEFORE THE PRESIDING OFFICER, CENTRAL  
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-  
LABOUR COURT, KANPUR****PRESENT :**

Sri Shubhendra Kumar, HJS

**Industrial Dispute No. 108 of 2013****Between**

The General Secretary,  
Kashi Gomti Samyut Gramin Bank Employees Association,  
C/o Anil Kumar Singh,  
212 Matbarganj,  
Azamgarh (UP) 276001.

**And**

The Chairman,  
Kashi Gomti Samyut Gramin Bank,  
Ratman Road,  
Singra, Varanasi. (UP)

**AWARD**

1. Central Government Mol, New Delhi, *vide* notification No. L-12011/53/2013-IR-(B-1) dated 24.07.2013, has referred the following dispute for adjudication to this tribunal—
2. Whether the action of the management of Kashi Gomti Samyut Gramin Bank in suspending the check-of facility cancellation of recognition of Kashi Gomti Samyut Gramin Bank Employees Association which is a majority union in the origination is legal and unjustified? If not, what relief the union is entitled and to what extent?
3. In this case after receipt of the reference order from the Ministry several opportunities were provided to the contesting parties but neither any one appeared on behalf on the claimant union nor filed their claim. Ultimately on 03.10.2013 an application through registered post was received in the office of the tribunal which was on behalf of the Secretary of the Union raising the present dispute. In his application dated 3.10.2013, he has clearly mentioned the fact he is not interested to prosecute the present reference. It therefore means that the union is not inclined to pursue their claim. As such the tribunal is left with no other option but to record a no claim award against the union.
4. Accordingly a no claim award in the case is passed against the union as they are not interested in pressing the present reference before this tribunal.

SHUBHENDRA KUMAR, Presiding Officer

**का.आ. 1657.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट (संदर्भ संख्या 45/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/08/2015 को प्राप्त हुआ था।

[सं० एल-41012/144/98-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 18 August, 2015

**S.O. 1657.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 45/99) of the Central Govt. Indus. Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial dispute between the management of Northern Railway and their workman, received by the Central Government on 18/08/2015.

[No. L-41012/144/98-IR(B-I)]

SUMATI SAKLANI, Section Officer

**ANNEXURE****BEFORE SRISHUBHENDRA KUMAR, HJS,  
PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
KANPUR****Industrial Dispute No. 45 of 99****Between**

Uttar Railway Karamchari Union,  
Sri Dinanath Tiwari,  
Divisional Organizing Secretary  
119/74 Quarter No. 61,  
Nasimabad,  
Kanpur

**And**

The Divisional Railway Manager,  
Northern Railway,  
Allahabad

**AWARD**

1. Central Government Mol, New Delhi, *vide* notification No. L-41012/144/98-IR-(B-1) dated 09.03.99, has referred the following dispute for adjudication.
2. Whether the action of the management of Northern Railway Allahabad in terminating the services of Sri Ganesh Kumar Pandey and 15 others (as per list

attached) is legal and justified? If not to what relief the concerned workers are entitled to?

3. On behalf of the workers one Sri Dinanath Tiwari has filed claim statement alleging that worker of the present case were firstly deployed under Chief Goods Superintendent, GMT/TPT, Kanpur, through Janta Labour Cooperative Society, Kanpur, for loading and unloading work and from 04.04.96 the society suddenly resigned and from 05.04.96, these workers started working under direct supervision of the railway officers.
4. On behalf of workmen Sri Vijay Kumar Srivastava has examined himself as W.W.1, who has admitted in his cross examination that he was not given any appointment letter or slip and he was working on verbal order and have not received any orders in writing, he has not filed any document to show that they worked for 240 days. They were not given any pay slip. Earlier work was done by society and they were not granted any leave. It is also alleged that their work was to load luggage from one train to another. It is also alleged that with effect from 05.04.96 to 31.05.97 the concerned workers were treated as casual labour by railway department and they were paid their wages as such by railway but instead of giving defined wages, these workers were paid very much less wages and they were utilized to perform the work. The workers worked continuously for more than 120 days as such they became entitled for the status of temporary employee and for regularization in the service of the railway but they were deprived from the above benefit. It is also alleged by the worker that the work on which they were deployed by the railway was of regular and permanent nature. The officers of the railway became annoyed with the worker after inspection was done by officers of the labour department and their services were terminated under the oral orders with effect from 01.06.97. Management has not complied with the provisions of section 25-F and 25-G of the Act at the time of dispensing with the services of the workers. Therefore, it is prayed that three workers are entitled for reinstatement in service.
5. Opposite party has filed its reply admitting the fact that in GMC/TPT, Northern Railway the work of loading and unloading was done through Janta Labour Cooperative Society till 04.04.96. After resignation of the society the work of loading and unloading was being carried on through market labours. It is denied by the management that with effect from 05.04.96 to 31.05.97 concerned worker were ever in the direct employment of the management nor they ever worked

as a casual labour and they were never paid wages of a casual labour. It is also denied that none of the market labour had ever worked continuously for 120 days. Opposite party admitted the fact that the Assistant Labour Commissioner (Central) inspected the GMC on 23.05.97. It is denied by the management that the work of loading and unloading neither was of regular and permanent nature nor was likely to continue in future. As such there was no sanctioned post for loading and unloading. It is also denied that the worker shown in annexure had never worked continuously because the work of GMC was not of continuous nature. As such question of payment of retrenchment compensation, notice or notice pay does not arise.

6. Therefore, the management has not committed any illegality nor they had ever terminated the services of the workers, therefore, the claim of the worker is liable to be dismissed being devoid of merit.
7. —
8. Workers have also examined Sri Ram Shanker Tiwari as W.W.2 who has alleged in his evidence that he was working in GMC(TPT) Fazalganj, Kanpur from 05.04.96 to 31.05.97 and was loading luggage from one wagon to another and payment was made on monthly basis. He has admitted in his cross examination that this work was done by society and earlier to which they were members. After termination of contract with society they were doing the work of loading and unloading on verbal orders. He has no slip of payment or regarding his duties.
9. Both sides have filed their respective documents in the case, whereas the worker *vide* application dated 21.11.2000 has filed 6 documents, management *vide* application dated 30.04.2001 has filed 3 documents relevancy of which will be seen at the appropriate stage.
10. None appeared to argue the case, therefore, award is being passed on the basis of records of the case. I have carefully examined the whole file.
11. On behalf of management Z. Ekka was examined who has alleged in his evidence that till 05.04.96 work was done by society through labours and contract of society has come an end on 05.04.96, thereafter railway administration was taking work from market labours for loading the luggage and they paid combined charges to one labour for distribution amongst all the labours. It is also alleged that paper No. 12/2-7 are vouchers for combined payment of loading charges.

12. Management has filed copy of Rule 2302 of Indian Railway Commercial Manual Vol. II regarding loading and unloading in which it was provided that the work will be done through contractors own employee. Management also filed payment vouchers paper No. 12/2-7 which denotes that work was done by market labour and payment was made collectively to one person.
13. As it appears from the evidence adduced by the worker they failed to prove that worker have worked continuously for 120 days under direct employment of the railway and they also failed to prove that they have got temporary or regular status. Besides this they could not file payment vouchers through which payment was made to the workers. Contrary to it management has filed payment vouchers which prove that the work was taken by market labour for which combined payment was done to one market labour for distribution amongst all workers.
14. It is also admitted by the worker that they have worked under oral orders and were not given any slip for the work done by them.
15. Therefore, as the workers were not in the direct employment of the management question of terminating their services by the railway administration does not arise.
16. Consequently reference is answered accordingly.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 18 अगस्त, 2015

**का.आ. 1658.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर पूर्व रेलवे प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट (संदर्भ संख्या 136/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.08.2015 को प्राप्त हुआ था।

[सं० एल-41011/31/2013-आईआर(बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 18th August, 2015

**S.O. 1658.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 136/2013) of the Cent.Govt.Indus. Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the industrial dispute between the management of N.E. Railway and their workmen, received by the Central Government on 18.08.2015.

[No.L-41011/31/2013-IR(B-1)]

SUMATI SAKLANI, Section Officer

## ANNEXURE

### BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, KANPUR

#### Present :

Sri Shubhendra Kumar, HJS

#### Industrial Dispute No. 136 of 2013

#### Between—

Sri Ram Hulas,  
Son of Budhan,  
Village Amdaur,  
P.O. Chhata,  
District Ballia.

#### And

The General Manager,  
N.E. Railway,  
Gorakhpur.

## AWARD

1. Central Government, MoI, New Delhi, vide Notification No. L-41011/31/2013-IR(B-1) dated 24.10.2013, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of NE Railway in not giving opportunity for screening to Sri Ram Hulas son of Sri Budhan Ram is legal and justified? To what relief the concerned workman is entitled for and to what extent?
3. In the instant case after receipt of the reference from MoI, New Delhi, notices were sent to the parties. On behalf of opposite party their authorized representative filed its authority in the case, but neither the workman appeared in the case nor filed his statement of claim. However another notice to the workman was again sent by the office of the tribunal fixing 22.12.2014, for filing claim statement by the workman, but yet again he did not file his claim statement nor appeared before the tribunal. Therefore, it is amply clear that the workman is not interested to contest the reference.
4. As such under the facts and circumstances of the case the reference is liable to be answered against the workman for want of pleading and proof.
5. Reference is answered accordingly.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 18 अगस्त, 2015

**का.आ. 1659.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर मध्य रेलवे



के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट (संदर्भ संख्या 50/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.08.2015 को प्राप्त हुआ था।

[सं० एल-41012/45/2007-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 18th August, 2015

**S.O. 1659.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 50/2007) of the Cent.Govt.Indus. Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the industrial dispute between the management of North Central Railway and their workmen, received by the Central Government on 18.08.2015.

[No. L-41012/45/2007-IR (B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

**BEFORE SRI SHUBHENDRA KUMAR, HJS,  
PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
KANPUR**

**Industrial Dispute No. 50 of 2007**

#### Between—

Sri Pramod Kumar Srivastava,  
Son of Sri Om Prakash Srivastava,  
Village Bharua Sumerpur,  
Near Railway Station,  
Hamirpur U.P.

#### And

Divisional Railway Manager,  
North Central Railway,  
Jhansi.

#### AWARD

1. Central Government, MoI, New Delhi, *vide* Notification No. L-41012/45/2007-IR(B-1), dated 04.10.07, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management, DRM North Central Railway, Jhansi in refusing to employ Sri Pramod Kumar Srivastava and employing his junior by violating Sections 25G and 25H of the ID Act, is legal and justified? If not, to what relief the concerned workman is entitled?
3. It is unnecessary to give full facts of the case as after filing the claim statement, the workman stopped coming

before the tribunal and this tribunal *vide* order dated 05.03.2014, debarred the workman from evidence and the management too submitted that they also do not want to lead any evidence.

4. In view of above it is abundantly clear that it is a case where there is no evidence from either side as well as it also appears that the workman is not interested in prosecuting his case.
5. Even otherwise the present case cannot be termed to be an industrial dispute within the definition of section 2(k) of the Industrial Disputes Act, 1947, as refusal to re-employ and workman by an industry is absolutely outside the scope and ambit of the term Industrial Dispute. From this point also workman cannot be allowed for any relief in pursuance of the present reference.
6. Moreover, term re-employ does not include retrenchment within the meaning of retrenchment as defined under section 2-A of Industrial Disputes Act, 1947, being so at any rate the present schedule of reference cannot be termed to be a case of Industrial Dispute within the meaning of the provisions of Industrial Disputes Act, 1947.
7. Therefore, for the reasons explained above, the workman is held entitled to no relief for want of evidence and the reference is bound to be decided against the workman and in favour of the management.
8. Reference is answered against the workman.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 18 अगस्त, 2015

**का.आ. 1660.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर मध्य रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट (संदर्भ संख्या 14/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.08.2015 को प्राप्त हुआ था।

[सं० एल-41011/29/2006-आईआर(बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 18th August, 2015

**S.O. 1660.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 14/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the industrial dispute between the management of North Central Railway and their workmen, received by the Central Government on 18.08.2015.

[No. L-41011/29/2006-IR(B-1)]

SUMATI SAKLANI, Section Officer



**ANNEXURE****BEFORE SRI SHUBHEDRA KUMAR, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR**

Industrial Dispute No. 14 of 07

The Divisional Organizational Secretary,  
All India Railway Employees Confederation,  
107/76 Jawahar Nagar,  
Kanpur.

**And**

The Divisional Railway Manager,  
NCR,  
Allahabad.

**AWARD**

1. Central Government, Mol, New Delhi *vide* notification No.L-41011/29/2006-IR (B-I) dated 18.04.07 has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of North Central Railway in refusing temporary status and CPC scale to Sri Shiv Kumar from 1985 onwards is legal and justified? If not to what relief the workman is entitled to?
3. In short the case of the workman is that he was appointed for the first time on 17.05.84 at the post of sweeper under Chief Goods Supervisor and continued to work as such till 14.05.91 and on 15.5.91 he was transferred at the same post at Ambiyapur. He was again transferred at the same post under Station Suptd. Bhaupur. According to Railway Boards Letter No. NG/11-80/CM/25 dated 14.06.84 a railway employee after completion of 120 days of continuous service he is granted temporary status and the provisions of Railway Servants Discipline and Appeal Rules becomes enforceable and also he will be given CPC Scale. As per records given by the opposite party concerned workman had completed 240 days of service during the period 07.06.85 to 31.12.85, but he was not granted the benefit of CPC scale as per policy of the railway and he was given CPC scale in the year 1995. After completion of 120 days of service an employee becomes eligible for CPC Scale after screening such employee is given CPC scale.
4. Therefore, union prays to grant of CPC scale to the worker after completion of 120 days of continuous service and he be also granted all related benefits as per rules.
5. Opposite party has filed written statement in which the claim of the workman was refuted on a number of grounds. It is alleged that the workman had worked as

casual labour had never worked continuously for 120 days for grant of temporary status as such he is not entitled for temporary status. Workers continuous working for 240 days is also denied by the opposite party. It is also stated by the opposite party that the worker during the period 15.06.91 to 14.08.91 had worked for 17 days, from 15.01.93 to 12.12.93 for 94 days and from 14.12.93 to 12.07.94 for 147 days and the worker was screened on 15.03.95 and empanelled *vide* panel O. 83/96. The worker was sent for medical examination on 30.07.95 but being TB patient he was not found medically fit and was given appointment as safaiwala in roadside station. In the last it is stated that the worker is not entitled for any relief.

6. The worker with his claim statement has filed paper No. 4/5 to 4/10 which are in the nature of photocopies.
7. The worker has not appeared in the witness box to prove his case and the documents which are in the nature of photocopies cannot be considered as piece of acceptable evidence.
8. Opposite party has also not adduced any evidence.
9. From the above discussion it appears that virtually it is a case of no evidence and therefore, the workman cannot be held entitled for any relief for want of proof.
10. Accordingly reference is bound to be answered against the union/worker and in favour of the opposite party. As such worker is not entitled for any relief.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 18 अगस्त, 2015

**का.आ. 1661.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर पूर्व रेलवे के प्रबंधन के सबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट (संदर्भ संख्या 32/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.08.2015 को का प्राप्त हुआ था।

[सं० एल-41012/11/2014-आईआर(बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 18th August, 2015

**S.O. 1661.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 32/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the industrial dispute between the management of N.E. Railway and their workmen, received by the Central Government on 18.08.2015.

[No. L-41012/11/2014-IR(B-I)]

SUMATI SAKLANI, Section Officer

**ANNEXURE**

**BEFORE SRISHUBHENDRA KUMAR, HJS,  
PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
KANPUR**

**Industrial Dispute No. 32 of 2004**

Sri Hari Lal Son of Videshi,  
Village Chakara,  
Post Dohariya,  
Distt. Gorakhpur,

**And**

The General Manager,  
N.E. Railway,  
Gorakhpur.

**AWARD**

1. Central Govt. Mol, New Delhi, *vide* notification No. L-41012/11/2014-IR-(B-I) dated 10.06.2004, has referred the following dispute for adjudication to this tribunal.

2. Whether the action of the management of N.E. Railway Gorakhpur, in terminating the services of Sri Hari Lal son of Sri Videshi *w.e.f.* 15.10.83 is legal and justified? If not to what relief the workman is entitled for?

3. In short the case of the workman is that he was appointed at the post of Khalasi on 27.01.81 and was posted at Khalilabad Railway Station. He was removed from service with effect from 15.10.83 and during the period of his employment he was utilized to work at the post. During the period of his employment he was treated to be a regular employee and he was paid his wages and other benefits like a regular employee of the railway. It is also alleged by the worker that he was engaged to work permanently and he was never engaged for specific period. He is not aware of the fact that any seniority list was prepared by the department. After his removal from service several fresh intakes were given appointment by the opposite party. He made several representations for his employment before the authorities of the opposite party but all in vain. It is also alleged by the worker that at the time of his removal from the service neither he was given any notice, notice pay or retrenchment compensation as is provided under section 25F of the Act, therefore his removal from service is bad law and he is liable to be reinstated in the service of the opposite party with full back wages and all consequential benefits.

4. The opposite party has filed its reply against the claim statement of the worker wherein it is alleged that the worker was engaged as a casual khalasi on daily rate basis under PWI Khalilabad. The work of the worker was of temporary nature. Opposite party has admitted that the worker had worked for 121 days. The work against the worker was engaged was for a specific period for specific

work and after the completion of work his services stood terminated automatically by efflux of time. Worker has never worked against any regular post rather he was posted as casual khalasi to work temporary. It is also stated by the opposite party that as and when his name occurs according to the seniority in the live register he will be considered for regular appointment. He was appointed as casual khalasi for specific project for specific work and on time bound budgetary provision and as and when the project work is completed the service of casual khalasi stood terminated automatically by efflux of time. The claim of the worker is highly belated and therefore is liable to be rejected on this sole ground.

5. On the basis of above it has been prayed by the opposite party that the worker is not entitled for any relief as claimed by him.

6. The worker has filed service record paper No. 7/4 wherein he has been shown to have completed 121 days of continuous service during the period 16.06.83 to 16.09.83. He has also filed certain documents which are the guidelines issued by Ministry of Transport Department of Railways dated 11.09.86 on the subject of casual labour terms of employment of.

7. Apart from above worker has also examined himself as W.W.1, wherein he has corroborated the statement of claim.

8. Management has not adduced any evidence in support of their claim rather filed copy of judgment of Apex Court in the case of Inder Pal Yadav *versus* Union of India and other in writ petition No. 147, 320-69, 454, 4345-4434/83 etc. etc.

9. W.W 1 in his evidence stated that he was appointed on 27.01.81 a Khalasi and his services were terminated on 15.10.83. He was appointed in regular service and was not appointed for any specific period. His name was not considered at the time of preparing seniority list and his juniors were again appointed by the management. No cross-examination has been conducted by the management and they have not adduced any evidence. In written statement it is alleged by the opposite party that the worker has rendered his service for specific project and for specific period and after completion of project his services were not required and came to an end on the end of project and by efflux of time. It is further alleged that as per direction given by Hon'ble Supreme Court (*supra*) that the matter of project casual labour terms of employment was considered and seniority list was prepared for taking services of project casual labours if required. Worker has himself filed paper No. 7/3 application given by him to General Manager NE Railway Gorakhpur requesting for considering his name in the seniority list for appointment and has also stated that his name be shown in the seniority list dated 01.04.85.

10. Worker has failed to establish that he was appointed against any regular vacancy as he has not filed any documents to prove it and as he has moved application paper No. 7/3 aforementioned it is evidence that he was appointed for project work and that is the reason that his name was found in seniority list as per direction of Hon'ble Apex Court.

11. In this context the worker has filed record for service which is paper No. 7/4, wherein cause of discharge of the service of the worker is mentioned as KARYA SAMAPTI PER and it is also mentioned that he was engaged on demand note which also establishes the case of the management that the worker was engaged on time bound project work and his service were not required after completion of project and his name was recorded in the register according to his seniority in compliance of direction of the Hon'ble Apex Court, which shall be taken in service as and when required for another project. As such he was neither appointed on any regular vacancy nor his service ever terminated by the management.

12. As it is held that worker has not been appointed against any regular vacancy for but was appointed for time based project which came to an end by efflux of time, therefore, he cannot be held entitled for any relief.

13. However, the management can again utilize his service in any future project as per direction of the Hon'ble Apex Court.

14. Reference is answered in above terms.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 18 अगस्त, 2015

**का.आ. 1662.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14 की धारा 17) के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंध तंत्र के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण कानपुर के पंचाट (संदर्भ संख्या 17/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.08.2015 को प्राप्त हुआ था।

[सं. एल-12012/168/2007-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 18th August, 2015

**S.O. 1662.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 17/2008) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 18.08.2015.

[No. L-12012/168/2007-IR (B-I)]

SUMATI SAKLANI, Section Officer

## ANNEXURE

### BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, KANPUR

**Present :** Sri Shubhendra Kumar, HJS

**Industrial Dispute No. 17 of 2008**

**Between-**

Sri Jugul Kishore,  
Son of late Sri Beni Prasad,  
R/o SBI Compound.  
Elite Chauraha,  
Civil Lines Jhansi.

And

The Regional Manager,  
State Bank of India,  
Main Branch,  
Civil Lines, Jhansi.

## AWARD

1. Central Government, *vide* notification No. L-12012/168/2007-IR (B-I) dated 09.01.2008, has referred the following dispute for adjudication to this tribunal.

2. Whether the action of the management of State Bank of India *viz.* Regional Manager, State Bank of India, Jhansi, & Chief Manager, State Bank of India, Jhansi, in refusing to employ Sri Jugul Kishore son of late Sri Beni Prasad from 02.02.06, is legal and justified? If not, what relief the workman concerned is entitled to?

3. At the outset it may be pointed out here that by a bare perusal of the language of the reference order it is quite clear that the schedule of reference appears to be outside the ambit and scope of section 2-A of Industrial Disputes Act, 1947, as there is no mention of the fact that at any point of time the workman had been terminated from the service of the opposite party. Mere mention of the fact in refusing to employ by the bank to the workman would not *ipso facto*, brought the case of the workman within the meaning of definition of term retrenchment. Therefore, on this sole ground that workman cannot be held entitled for any relief as claimed by him in his claim petition.

4. Now coming on the merit of the case, the claim of the workman is that due to retirement of a permanent sweeper by name Sri Guru, charan, post of sweeper became vacant in SBI Main Branch, Jhansi. The claimant after completion of all formalities and after approval by the Assistant General Manager, SBI, Zonal Office, Kanpur, he was engaged as sweeper at Jhansi, in the month of March 1995. The applicant from the date of his engagement continued to work satisfactory. It is also alleged by the claimant that from the date of his engagement in each year he had worked more than 240 days of continuous service. One other regular employee by name Beni Prasad working at the post of

sweeper on regular and permanent basis sought VRS on 31.03.2001 and in this way there remained two regular and permanent post of sweeper as vacant. The Chief Manager, of the bank *vide* letter dated 10.11.2004, wrote to the higher authorities of the bank to regularize the services of the claimant, but no action was taken thereon. It is also claimed by the workman that the opposite party indulged in an unfair labour practice because the main branch of the opposite party is a big one and the officers of the bank used to take work from the claimant against two posts of sweepers by paying wages at Rs.1800/- per month. On the assurances of the officers of the opposite party that he will be regularized in the service of the bank he continued to work in the bank but despite their assurances he was neither regularized nor declared permanent employee of the bank. The claimant continued to raise his request oral as well as in writing to regularize him in the service of the bank but all in vain and on action was taken by the opposite party to his request. Against the demand of the claimant the officers of the management became annoyed against him and by oral order dated 02.02.06; they terminated the service of the workman. At the time of termination of the services of the workman, it was obligatory on the part of the opposite party to have paid to the workman notice, notice pay and retrenchment compensation as provided under section 25F of the Act and since the management has breached the provisions of section 25 F of the Act, the termination of the service of the workman is a retrenchment. It is also alleged that the action of the management is also violative of the provision of section 25G of the Act, inasmuch as the management allowed his junior Sri Rakesh in the service of the bank. Not only it but the management also appointed one Sri Ravi at the post of sweeper after the termination of the service of the workman.

5. On the basis of above it is prayed by the workman that the action of the management is against the provisions of the Act, and in any view of the matter the workman is entitled for protection of the provisions of the Act and thus he be held entitled to be reinstated in the service of the opposite party with full back wages, continuity of service and all consequential benefits.

6. The claim of the workman has been refuted vehemently by the opposite party on a number of grounds *viz.*, that the claimant had never worked in the office of Regional Manager or Chief Manager, SBI Jhansi, therefore, he had wrongly arrayed them as a party to the dispute and also that the workman was ever refused employment by the above concerns. As such the present claim is not maintainable in the eye of law. Present matter is not against the termination hence claimant cannot get any relief from this Hon'ble Court. Present dispute is not an industrial dispute as such is not maintainable. There is no relationship of employee and employer between the workman and the

bank. Workman did not work continuously for 240 days either at Regional Manager, Jhansi or Chief Manager, SBI, Jhansi in 12 calendar months, therefore, provisions of section 25 F of the Act are not attracted. The authorities who is claimed to have appointed the workman are not competent to appoint the workman according to the rules of the bank as there is a procedure for recruitment of sweeper and service conditions of the bank employee are governed by the Sashtri Award, Desai Award and Bipartite Settlement. The workman was never engaged by the bank as per settled procedure of the bank not he was paid wages. No appointment letter was given to him by the bank. It is also alleged by the opposite party that the claimant is trying to seek back door entry in the service of the bank by misusing the doors of this tribunal. On the case the bank has reiterated the above points and no new point had been pointed out against the claim petition of the workman.

7. Lastly the bank has not disputed the letter dated 10.11.04, but stated that the recommendation was declined by the Zonal Office.

8. On the basis of above it has been prayed by the opposite party that the reference should be answered against the workman and in favour of the opposite party.

9. The opposite party *vide* affidavit dated 07.06.11 has filed documents paper No. 16/2-9 purported to be bills and charges favoring Kasturi Builders for sweeping and cleaning of the bank premises. Therefore from these payment vouchers it is not at all clear as to whether these payments were made in respect of the concerned workman or not. Only from document No.16/5 it is clear that the workman has received the payment of Rs.1800/- for the period 01.08.03 to 31.08.2003 and from document No. 16/7 it reveals that the workman prepared the bill but the amount was received at Rs. 1800/- through some the kadar for the period 01.10.03 to 22.10.03.

10. The opposite party by means of affidavit dated 19.04.2011 has filed 28 original vouchers for the period 01.06.2013 to 31.11.2005, In the affidavit it has also been mentioned that vouchers relating to the month of August, October, 2003, December, 2005 and January, 2006 could not be traced after best efforts.

11. The opposite party has also filed paper No. 17/2-3 purported to be a letter dated 10.11.2004 written by Chief Manager, SBI, Jhansi to the Assistant General Manager, R. IV, SBI, Zonal Office, Kanpur on the subject of provision of permanent sweeper, wherein by referring letters of even numbers had stating that one permanent sweeper by name Gurcharan retired on 31.12.91 and Sri Beni Prasad another sweeper sought VRS and since then no full time permanent sweepers are posted at the branch and the work of sweeping and cleaning is being arranged at branch level



through Jugul son of Sri Beni Prasad and Sri Rakesh son of Raja Ram (work of Farrash) on daily wages and the matter was taken up time and again with the zonal office but no full time sweeper and farrash are posted so far despite our recommendation to appoint them for our branch.

12. It may be pointed out here that according to section 10(4) of the Act, the tribunal cannot travel beyond the scope and ambit of the terms of the reference order. But by a bare perusal of the pleadings of the workman it is quite clear as if he is challenging his termination from the service of the opposite party by seeking relief of reinstatement whereas reference speaks otherwise. From the reference order it reveals that it is the action which is under challenge when the opposite party refused to employ the workman from 02.02.2006, but it no where but it no where speaks that at any point of time he was terminated from the service of the bank. But this plea has been taken by the workman in his claim petition by stating that he was terminated by the employer by oral order with effect from 02.02.06. Therefore, the plea that the employer terminated the service of the worker is against the terms of reference order, cannot be looked into as it is beyond the scope of terms of reference order.

13. Here it may be clarified that for examining the action of the employer in case of termination of the services of a daily rated employee, casual employee, temporary employee what is required is to evaluate the evidence of the parties and to find out whether such employee has completed 240 days of continuous service and whether or not he has been paid notice, notice pay or retrenchment compensation at the time of his termination of service and when after evaluation of evidence oral as well documentary evidence it is found by the tribunal that workman has established his claim, in that case the tribunal can allow appropriate relief to such workman according to law as tribunal deems fit and proper.

14. Assuming the present case to be a case of termination of the services of the workman, the tribunal has also considered the evidence of the worker and the opposite party. After evaluating the oral evidence of the worker it is established that he had worked for 240 days of continuous service preceding the alleged date of termination of his service. This fact also stands proved from the payment vouchers filed in original by the bank for the period 01.02.2005 to 30.11.2005 and also that the worker was paid Rs. 1800/- per month.

15. The workman has also filed his affidavit and has examined himself as w.w.1 whereas the opposite party examined Sri jitendra Kumar Verma as M.W.1.

16. In his cross examination w.w.1 has clearly admitted the fact that he has not filed any documents showing any junior person was working in the bank. He has also admitted

that he worked up to Jan. 2006. Witness has expressed his ignorance on paper No. 17/2-4 saying that he does not as to what happen on this letter from Zonal Office. He further admitted that on a number of vouchers it is mentioned that he worked through contractor. The writing appearing on these vouchers is not of his but admitted the fact that his signatures are appearing thereon.

17. Management witness in his evidence has stated that the worker had never worked for 240 days preceding 12 calendar months from the date of termination of the service of the workman but when this statement of the witness is compared with documentary evidence filed by the bank, it is clear that the statement of the witness is not correct.

18. Be that as it may, the evidence oral as well as documentary lead by the contesting parties in the case, cannot improve the case of the workman in any manner that he had worked continuously for 240 days and he has been removed from the service of the bank in breach of the provisions of Section 25F of Act, therefore, he is entitled to the relief of reinstatement.

19. As already in the para 3 of the award it has already been observed by the tribunal that in the light of the reference order the workman is not entitled for the relief as claimed by him as it goes contrary to terms of reference order.

20. Therefore, in view of above discussion, it is held that although the workman has been found to have worked for more than 240 days of continuous service, still he cannot be granted any relief of any nature whatsoever, because from the reference order it is quite clear that it is not posing the question of justification of the action of the bank regarding termination of the service.

21. Reference is therefore, answered against the worker and in favour of the bank.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 18 अगस्त, 2015

**का.आ. 1663.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर पूर्व रेलवे प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट (संदर्भ संख्या 33/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 18.08.2015 को प्राप्त हुआ था।

[सं. एल-41012/1/2004-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 18th August, 2015

**S.O. 1663.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 33/2004) of the Cent.



Govt. Indus. Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the industrial dispute between the management of N.E. Railway and their workmen, received by the Central Government on 18.08.2015.

[No. L-41012/1/2004-IR (B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

**BEFORE SRISHUBHENDRA KUMAR, HJS,  
PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT,  
KANPUR**

#### INDUSTRIAL DISPUTE NO. 33 OF 2004

#### Between

Sri Ram Pyarey son of Sri Tirath,  
Village & Post Rawat Bheeti,  
Sahjanwa,  
District Gorakhpur

#### And

The General Manager,  
NE Railway,  
Gorekhpur

#### AWARD

1. Central Government, Mol, New Delhi, *vide* notification No. L-41012/1/2004-IR(B-1) dated 07.06.04, has referred the following dispute for adjudication to this tribunal.

2. Whether the action of the management of NE Railway, Gorakhpur, through Dy. Chief Engineer (Const) Survey Gorakhpur in terminating the services of Sri Ram Pyarey son of Sri Teerath *w.e.f.* 16.04.82 is legal and justified? If not to what relief the workman is entitled for?

3. It is alleged by the workman that he was appointed the post of Khalasi on 17.11.80, under Dy. Chief Engineer (Construction & Survey) N.E. Railway Gorakhpur, and continued to work till 15.4.82. He was treated at par with those of regular and permanent railway employee belonging to his category and received all wages and facilities from the opposite party as are given to regular employees. A seniority list of workers was prepared by the opposite party on 01.04.85 in which his name is appearing. It is also alleged that the services of the workman were dispensed with by the opposite party with effect from 15.04.84, without any reason, without notice, notice pay or retrenchment compensation, hence his termination from service is in breach of provision of section 25F of the Act, and therefore, the action of the management is liable to be held as illegal and unjustified and the workman is entitled to be reinstated in service with full back wages, continuity of service and all consequential benefits.

4. Opposite party filed their reply in which in para 19 and 20, after denying the working of the workman against regular post it is stated that the engagement of the workman was against a sanctioned project for specified period for which budgetary provisions are made to complete the work within specific period and after completion of the project the services of the workman stood automatically terminated by efflux of time. The work on which the workman was engaged was not of permanent nature. The workman was removed from the service after providing him notice dated 27.03.82 and he was also paid compensation as provided under law and that the claim of the workman is highly belated, hence is liable to be dismissed.

5. During pendency of the case claimant Ram Pyarey had expired and an application was given by his wife Smt. Mohra for substituting her which was allowed on 02.07.08.

6. It is pertinent to mention here that the workman has not adduced any evidence in support of his claim. Mere filing of affidavit by the workman and certain photocopies of documents, no cognizance of it can be taken in the eye of law unless he it is proved. Under these circumstances, it can be safely held that it is a case where workman has not adduced evidence in support of his claim.

7. Management has also not adduced any evidence.

8. In view of position explained above, it is crystal clear that it is a case of no evidence and the workman cannot be held entitled for any relief for want of evidence.

9. Reference is answered accordingly against the workman.

SHUBHENDRA KUMAR, Presiding officer

नई दिल्ली, 18 अगस्त, 2015

**का.आ. 1664.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर मध्य रेलवे प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट (संदर्भ संख्या 43/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 18.08.2015 को प्राप्त हुआ था।

[सं एल-41012/44/2007-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 18th August, 2015

**S.O. 1664.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 43/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Kanpur as shown

in the Annexure, in the industrial dispute between the management of North Central Railway and their workmen, received by the Central Government on 18.08.2015.

[No. L-41012/44/2007-IR(B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

**BEFORE SRISHUBHENDRA KUMAR, HJS,  
PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
KANPUR**

**Industrial Dispute No. 43 of 07**

#### Between -

Sri Riya at Ali son of Sri Shaukat Ali, Village & Post Rura,  
Ward No. 2 Kanpur Dehat.

#### And

The Divisional Railway Manager,  
North Central Railway,  
Allahabad and others.

#### AWARD

1. Central Government. Mol, New Delhi *vide* notification No. L-41012/44/2007-IR (B-1) dated 06-09-07, has referred the following dispute for adjudication to this tribunal.

2. Whether the action of the management of Divisional Railway Manager NCR, Allahabad in refusing to employ Sri Riyasat Ali son of Sri Shaukat Ali as Casual Khalasi or in any other suitable alternative job with effect from 07.01.2003 onwards is legal and justified? If not to what relief the concerned workman is entitled?

3. In short the case of the workman is that he was appointed as casual khalasi on 06.04.75, under PWI, Northern Railway Phaphund and during the closure of work he met with an accident by 55 UP Assam mail due to which he sustained serious injuries in his left leg. He was hospitalized at Rura for preliminary medical treatment where after he was referred for his regular treatment at Loco Hospital, Kanpur. Subsequently he was referred to railway hospital at Allahabad and was admitted there. He was discharged from the hospital on 11.10.77 for joining his duty. According to the workman this would mean that he was held medically fit for resuming his duties otherwise doctors would not have recommended him for his duty and he again joined his duties under PWI Phaphund. The railway authorities keeping in view of the fact that his left leg was injured in rail accident allowed him light duty as chowkidar where he worked continuously up to 1980. Without showing any cogent reasons services of the workman were transferred with effect from 24.12.80 with direction to join under Signal Inspector (D) Etawah. The workman had acquired temporary status and his services were terminated by the railway administration along with

one Sheo Kumar on 11.05.88 without showing any cause and without complying with the provisions of the Act. Workman raised an industrial dispute which was referred to this Tribunal by appropriate government for adjudication and the tribunal in its award held that the workman had acquired temporary status as he worked continuously till 11.05.88, therefore, his termination is bad in law being in breach of the provisions of Sec. 25F of the I.D. Act. Accordingly he was reinstated in service with full back wages that was drawn by him on the date of termination. Thereafter he was reinstated in service *vide* letter dated 17.07.2002 and he was paid his entire back wages. It is alleged that with mala fide intention to remove his service illegally the railway administration again sent the workman for medical examination twice and the workman on the provocation of the officers under whom he worked was declared medically unfit for category B1, B2 and below. The worker got medically examined himself through Dr. K.C. Goel who after examining him put his remark that workman is fit in all respect and he can walk on his own, his eye and ear are normal and photocopy of the said certificate is enclosed. He was again removed from the service of the railway with a view to prevent him to enjoy the fruits of the award under the garb of medical examination. At any rate the action of the opposite party is not justified and fair and in all respect he is entitled for his reinstatement on some alternative post with full back wages, seniority and all consequential benefits.

4. The claim of the workman has been vehemently refuted by the opposite party on a number of grounds *viz.* the workman was referred for medical examination before railway doctor and there he was declared medically unfit by the doctor. It is admitted by the railway that the worker was allowed light work on his reinstatement; transfer and posting of an employee is the prerogative of the administration therefore, if the worker was transferred to Etawah no illegality can be said to have been committed by the railway administration; it is denied by the opposite party that services of the worker were terminated without any reason rather hard facts remain that he was medically declared unfit for B1, B2 and all category; if the worker was not satisfied with the report of the doctors he should have claimed for Medical Board; private medical certificate is not accepted by the railway as railway has its own doctors and hospitals; the services of the worker have been terminated as per law as he was declared medically unfit for B1 and B2 category and below and as the claim of the worker has already been decided by this tribunal in I.D. No. 216 of 90, hence the present case is liable to be dismissed without any relief to the worker.

5. Rejoinder statement has also been filed by the worker but nothing new has been stated therein.

6. The worker has filed documents paper no. 12/6-13 on affidavit.

7. He has also filed his evidence on affidavit but since none appeared on behalf of the railway administration to cross examine him, opportunity to cross was closed by the tribunal *vide* order dated 24.03.14.

8. I have heard the learned representative for the worker at length and have also perused the whole record carefully. None present for the railway to argue the case.

9. It is admitted by the railway that the workman was appointed as casual khalasi on 06.04.75, under PWI, Northern Railway, Rura. It is also admitted by the railway in their reply that the services of the worker were terminated according to law as the worker was declared medically unfit 1 B1, B2 and below and he was not found fit in any category.

10. It is also pertinent to mention here that worker has summoned several documentary records from the opposite party which includes documents relating his service and his treatment and this application was allowed on 17.03.11 but called for documents were not filed by the opposite party as such tribunal *vide* order dated 19.04.12 held that necessary inference shall be taken to the appropriate stage.

11. It is further pertinent to mention that worker has examined himself as w.w.1 supporting his case as alleged in the claim statement but no cross examination done by the opposite party and also opposite party has not examined any witness in support of their case and union has not filed medical examination report of the worker declaring him totally unfit as alleged by the opposite party. Contrary to it worker he filed his medical examination report dated 22.06.04 obtained through a private medical practitioner, wherein it mentioned that he can walk on his own and he cannot run normally and his eye and ear are in normal limits and he is free from any skin disease. As alleged by the worker in his evidence that he was removed from service earlier on medical grounds on 11.05.88 which was challenged before this tribunal in I.D. No. 216 of 90, and the award was recorded in his favor on 24.07.97 with back wages and all consequential benefits. Thereafter the management has taken him in service on 17.02.02. He was again referred for medical examination and after examination he was found medically unfit in Category B1 and B2 and again by order dated 17.01.03 he was removed from service on medical ground.

12. In railway manual it is provided that if any employees are injured in accident, he will be given lighter work. He has filed paper No. 15/3 which is the copy of order of removal of worker on medical ground dated 05.01.03. He has also filed copy of award of this tribunal dated 24.02.97 in I.D. No. 216 of 90, which is paper no. 4/3 and has also filed copy of reinstatement order in compliance of award of this tribunal which is paper No. 4/13.

13. As the opposite party has not cross examined the worker and also has not adduced any evidence in the case, the evidence of the workman remains un-controverted and can be believed.

14. Rule 152 of Establishment Rules is on the subject of alternative appointment to the medically unfitted staff and their seniority which, envisages that an alternative job must be offered to a Railway servant, who has failed in vision test or has been otherwise declared physically unfit to continue in a particular post. Only that alternative job should be offered to him which he is capable to perform. If no suitable alternative job is immediately available, he should be given leave in order to find out one. Such leave shall be granted according to ordinary rule, but where a railway servant has less than six months leave to his credit, such leave shall be made up to six months by grant of extra ordinary leave without pay. Effort must be made during this period to find a suitable alternative job for him. The emoluments of the alternative job should be reasonable, keeping the former emoluments in view.

15. In view of above discussion the action of the management of Divisional Railway Manager, NCR, Allahabad in refusing to employ Sri Riyasat Ali son of Sri Shaukat Ali as casual khalasi or in any other suitable alternative job with effect from 07.01.2003 onwards is neither legal nor justified. Accordingly the workman is held entitled for his reinstatement in service with full back wages and all consequential benefits according to Rule 152 of Establishment Rules (*supra*) and he is entitled for an alternative job under the railway administration according to his suitability for the job considering his physical disability as was done earlier when he was reinstated in the service of the railway in compliance of award of this tribunal in I.D. Case No. 216/90 decided on 24.02.97 by this tribunal.

16. Reference is answered accordingly in favor of the workman and against the railway administration.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 19 अगस्त, 2015

**का.आ. 1665.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर पूर्व रेलवे प्रबंधन के सबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 22/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/08/2015 प्राप्त हुआ था।

[सं० एल० - 41011/24/2014 - आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th August, 2015

**S.O. 1665.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/2014) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Lucknow as

shown in the Annexure, in the industrial dispute between the management of North Eastern Railway and their workman, received by the Central Government on 19/08/2015.

[No. L-41011/24/2014 - IR(B-1)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT LUCKNOW

#### Present

Rakesh Kumar, Presiding Officer

#### I.D. No. 22/2014

Ref. No. L-41011/24/2014-IR(B-1) dated: 31.03.2014

#### Between

Anchal Sangthan Secretary  
Rail Sevak Sangh  
C/o Shri D.P. Awasthi  
49, Tilak Nagar  
Lucknow.

(Espousing cause of Sri Hari Ram Prasad)

#### And

1. Sr. Divisional Personnel Officer  
North Eastern Railway  
DRM Office, Ashok Marg  
Lucknow
2. The Chief Medical Superintendent  
North Eastern Railway  
Gonda (UP)

#### AWARD

1. By order No. L-41011/24/2014-IR(B-1) dated: 31.03.2014 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Anchal Sangthan Secretary, Rail Sevak Sangh, C/o Shri D.P. Awasthi, 49, Tilak Nagar, Lucknow and Sr. Divisional Personnel Officer, North Eastern Railway, DRM Office, Ashok Marg, Lucknow & the Chief Medical Superintendent, North Eastern Railway, Gonda (UP) for adjudication.

2. The reference under adjudication is:

“क्या पूर्वोत्तर रेल प्रशासन, लखनऊ व गोंडा द्वारा श्री हरि राम प्रसाद पुत्र श्री राम आसरे, सफाईवाला को पुरानी पेंशन न देकर नई पेंशन दिया जाना न्यायोचित एवं वैध है? यदि नहीं तो कामगार किस राहत को पाने का हकदार है?”

3. On receipt of the reference order the workman's union was issued registered notice to file his statement of claim complete with relevant documents, list of reliance and witnesses before Tribunal on 22.05.2014 with an advance copy to the opposite party. The Secretary of the workman's union appeared before this Tribunal and requested for a date for filing of statement of claim.

4. On successive dates the management also turned up. Since the case was related to grant of old pension scheme instead of new pension scheme, the parties were advised to settle the dispute amicably through Lok Adalat. Accordingly, the case was taken up at Lok Adalat on 08.05.2015.

5. On 08.05.2015, Shri D.P. Awasthi, Secretary of the workman's union was present whereas the opposite parties were represented by Shri Upendera Kumar Sharma, Chief Welfare Officer.

6. The opposite party filed M-5, letter signed by Sri P.B. Prasad, Senior Divisional Personnel Officer, North Eastern Railway, Lucknow, enclosing circular No. 2012/F(E)III/I(1)/2 dated 29.10.2014 of the Railway Board. The management in letter M-5, referring circular dated 29.10.2014 has stated that the Railway Board, New Delhi vide their circular dated 29.10.2014 has directed to cover the employees who got temporary status prior to 01.01.2004 may be covered under Old Pension Scheme.

7. A copy of the M-5 was furnished to the workman's union. The authorized representative of the workman's union sought time to consult the workman; and accordingly, the case was taken up on 24.07.2015 at Lok Adalat. The Authorized representative of the workman's union, Shri D.P. Awasthi after going through the contents of letter, M-5 and circular dated 29.10.2014 showed willingness to withdraw the present industrial dispute being claim settled; and made an endorsement thereupon as under:

*"Since the relief claimed by the Union is been accepted by the Rly management, the further proceeding of case may be dropped."*

8. In view of the submission/endorsement of the workman's union for dropping of the proceedings, there is no grievance left with the workman's union as the present industrial dispute pertains to non-grant of old pension to the workman by the railway management and the management of the railway has granted the same vide circular 2012/F(E)III/I(1)/2 dated 29.10.2014 of the Railway Board. Resultantly, the industrial dispute stands settled; and no relief to be given to the workman concerned. The reference under adjudication is answered accordingly.



9. Award as above.

Lucknow. RAKESH KUMAR, Presiding Officer  
05th August, 2015

नई दिल्ली, 19 अगस्त, 2015

कांआ 1666.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट संदर्भ संख्या (43/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/08/2015 को प्राप्त हुआ था।

[सं एल-41011/04/2013 - आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th August, 2015

**S.O. 1666.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 43/2013) of the Cent.Govt.Indus. Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workman, received by the Central Government on 19/08/2015.

[No. L-41011/04/2013 - IR(B-1)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

#### PRESENT

Shri Rakesh Kumar, Presiding Officer

**I.D. No. 43/2013**

Ref No. L-41011/04/2013-IR(B-I) dated: 21.05.2013

#### BETWEEN

The General Secretary  
Rail Sewak Sangh  
49, Tilak Nagar,  
Lucknow

(Espousing cause of Shri Rajeev Kumar)

#### AND

1. The Chief Works Manager,  
(C&W) Workshop, Northern Railway  
Alambagh, Lucknow.
2. The Dy. Chief Personnel Officer  
(C&W) Workshop, Northern Railway  
Alambagh, Lucknow.

#### AWARD

1. By order No. L-41011/04/2013-IR (B-I) dated: 21.05.2013 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the General Secretary, Rail Sewak Sangh, 49, Tilak Nagar, Lucknow and the Chief Works Manager, (C&W) Workshop, Northern Railway, Alambagh, Lucknow & the Dy. Chief Personnel Officer, (C & W) Workshop, Northern Railway, Alambagh, Lucknow for adjudication.

2. The reference under adjudication is:

"Whether the action of the Management of Northern Railway, Lucknow in not including the name of Workman Shri Rajeev Kumar S/o Shri Manji Ram, Technician Grade III Carpenter-I No. 486 in the list of candidates to appear in written test for the post of 25% quota of intermediate Apprentice to be held on 18.12.2011, is legal and justified? If not, to what relief the workman is entitled to?"

3. The order of reference was endorsed, by the Central Government, to the General Secretary, Rail Sewak Sangh, 49, Tilak Nagar, Lucknow with direction to the party raising the dispute to file the statement of claim along with relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of the order of reference and also forward a copy of such a statement to each one of the opposite parties involved in this dispute under rule 10 (B) of the Industrial Disputes (Central), Rules, 1957.

4. The order of reference was registered in this Tribunal on 13.06.2013 and the office was directed to issue registered notice to the workman's union for filing the statement of claim with list of reliance & list of witnesses on 01.08.2013; but no statement of claim together with documents etc. was filed 01.08.2013, in spite of registered notice dated 18.06.2013; and the next date 20.09.2013 was fixed for further order. None turned up on behalf of the workman's union on successive dates i.e. on 20.09.2013, 11.11.2013, 26.12.2013, 11.02.2014, 15.04.2014, 04.06.2014, 28.07.2014, 12.09.2014, 14.11.2014 and 19.01.2015. However, Shri D.P. Awasthi turned up on behalf of the workman's union on 23.03.2015 and sought time; but on subsequent date, he mentioned his unwillingness to contest the case and made an endorsement to the effect accordingly.

5. The union did not move any application or adjournment seeking time to file the statement of claim; moreover, it has "not pressed" the case. More than two year's time has passed and the workman's union has failed to file its statement of claim, therefore, the case was reserved for award keeping in view the endorsement of the workman's union.



6. Therefore, in view of the endorsement, made by the representative of the workman's union, it appears that the workman's union does not want to pursue its claim on the basis of which it has raised the present industrial dispute; therefore, the present reference order is decided as if there is no grievance left with the workman's union. Resultantly no relief is required to be given to the workman concerned. The reference under adjudication is answered accordingly.

7. Award as above.

Lucknow RAKESH KUMAR, Presiding Officer  
03rd August, 2015.

नई दिल्ली, 19 अगस्त, 2015

**का.आ. 1667.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर पूर्व रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक, अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 31/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/08/2015 को प्राप्त हुआ था।

[सं. एल-41011/31/2014-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th August, 2015

**S.O. 1667.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. (31/2014) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. Lucknow as shown in the Annexure, in the industrial dispute between the management of North Eastern Railway and their workman, received by the Central Government on 19/08/2015.

[No. L-41011/31/2014-IR(B-1)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT LUCKNOW

#### PRESENT

RAKESH KUMAR, Presiding Officer

**I.D. No. 31/2014**

Ref No. L-41011/31/2014-IR(B-I) dated: 06.05.2014

#### BETWEEN

Anchal Sangthan Secretary  
Rail Sewak Sangh  
C/o Shri D.P. Awasthi  
49, Tilak Nagar  
Lucknow

(Espousing cause of Mo. Shafat Ullah)

#### AND

1. Sr. Divisional Personnel Officer  
North Eastern Railway  
DRM Office, Ashok Marg,  
Lucknow.
2. The Chief Medical Superintendent  
North Eastern Railway,  
Gonda (UP)

#### AWARD

1. By order No. L-41011/31/2014-IR (B-I) dated: 06.05.2014 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Anchal Sangthan Secretary, Rail Sewak Sangh, C/o Shri D.P. Awasthi, 49, Tilak Nagar, Lucknow and Sr. Divisional Personnel Officer, North Eastern Railway, DRM Office, Ashok Marg, Lucknow & the Chief Medical Superintendent, North Eastern Railway, Gonda (UP) for adjudication.

2. The reference under adjudication is:

“क्या पूर्वोक्त रेल प्रशासन, लखनऊ व गोंडा द्वारा मो. शफात उल्लाह पुत्र मो. शराफत उल्लाह अधीन, सफाईवाला को पुरानी पेंशन न देकर नई पेंशन दिया जाना न्यायोचित एवं वैध है? यदि नहीं तो कामगार किस राहत को पाने का हकदार है?”

3. On receipt of the reference order the workman's union was issued registered notice to file his statement of claim complete with relevant documents, lists of reliance and witnesses before Tribunal on 17.07.2014 with an advance copy to the opposite party. The Secretary of the workman's union appeared before this Tribunal and requested for a date for filing of statement of claim.

4. On successive dates the management also turned up. Since the case was related to grant of old pension scheme instead of new pension scheme, the parties were advised to settle the dispute amicably through Lok Adalat. Accordingly, the case was taken up at Lok Adalat on 08.05.2015.

5. On 08.05.2015, Shri D.P. Awasthi, Secretary of the workman's union was present whereas the opposite parties were represented by Shri Upendera Kumar Sharma, Chief Welfare Officer.

6. The opposite party filed M-5, letter signed by Sri P.B. Prasad, Senior Divisional Personnel Officer, North Eastern Railway, Lucknow, enclosing circular No. 2012/F(E)III/I(I)/2 dated 29.10.2014 of the Railway Board. The management in letter M-5, referring circular dated 29.10.2014 has stated that the Railway Board, New Delhi vide their circular dated 29.10.2014 has directed to cover the employees who got temporary status prior to 01.01.2004 may be covered under Old Pension Scheme.

7. A copy of the M-5 was furnished to the workman's union. The authorized representative of the workman's

union sought time to consult the workman; and accordingly, the case was taken up on 24.07.2015 at Lok Adalat. The Authorized representative of the workman's union, Shri D.P. Awasthi after going through the contents of letter, M-5 and circular dated 29.10.2014 showed willingness to withdraw the present industrial dispute being claim settle; and made an endorsement thereupon as under:

"Since the relief claimed by the Union is been accepted by the Railway management, the further proceeding of case may kindly be dropped."

8. In view of the submission/endorsement of the workman's union for dropping of the proceedings, there is no grievance left with the workman's union as the present industrial dispute pertains to non-grant of old pension to the workman by the railway management and the management of the railway has granted the same *vide* circular 2012/F(E)III/I(I)/2 dated 29.10.2014 of the Railway Board. Resultantly, the industrial dispute stands settled; and no relief is required to be given to the workman concerned. The reference under adjudication is answered accordingly

9. Award as above.

Lucknow. RAKESH KUMAR, Presiding Officer  
05th August, 2015

नई दिल्ली, 19 अगस्त, 2015

का.आ. 1668.—औद्योगिक विवाद अधिनियम 1947, 1947 का 14 की धारा 17 के अनुसरण में केन्द्रीय सरकार उतर रेलवे के प्रबंधन के संबंध निर्योजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 38/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/08/2015 को प्राप्त हुआ था।

[सं एल-41011/107/2010-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th August, 2015

**S.O. 1668.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 38/2011) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workman, received by the Central Government on 19/08/2015.

[No. L-41011/107/2010-IR(B-1)]

SUMATI SAKLANI, Section Officer

## ANNEXURE

### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

#### PRESENT

PRAKESH KUMAR, Presiding Officer

**I.D. No. 38/2011**

Ref. No. L-41011/107/2010-IR(B-I) dated 14.03.2011

#### Between :

Mandal Sangatan Mantri, Uttar Railways  
Karmachari Union, 283/63, KH, Gadi  
Kannora (Premvati Nagar), Manak Nagar  
Lucknow-16

#### And

Sr. Divisional Railway Manager (Personnel)  
Northern Railway.  
Hazratganj  
Lucknow (U.P.)

#### AWARD

1. By order No. L-41011/107/2010-IR(B-I) dated 14.03.2011 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Mandal Sangatan Mantri, Uttar Railway Karmchhari Union, 283/63 KH Gadi Kannora, Manak Nagar, Lucknow 16 and the Sr. Divisional Railway Manager (Personnel) Northern Railway, Hazratganj, Lucknow for adjudication.

2. The reference under adjudication is:

"Whether the Demand of Union Regarding Placing Sri Mangal Prasad S/o Sri Sukh Lal, Assistant Loco Pilot, Loco Shed, Lucknow in the Penal of the Year 1983-84 Above his Juniors, is Legal and Justified? To what Relief the Workman is Entitled"

3. On receiving reference from the government, ID case was registered by the then Hon'ble Presiding Officer on 01.04.2011. Notices were sent through registered post to the parties. The workman has filed claim statement (W-4) wherein it has been stated that he was appointed on the post of cleaner on 26.03.1978 and worked till 03.09.1981, he had worked for 1282 days. It has been alleged that the workman was illegally retrenched on 04.09.1981, he filed the case before CGIT, Kanpur as I.D. 48/83, CGIT, Kanpur decided the case in his favour vide award dated 19.02.1987 and 25.11.1985. Management filed writ petition before Hon'ble High Court which was dismissed and SLP filed in Hon'ble Supreme Court has also been dismissed. It has further been stated that during the pendency of aforesaid industrial dispute the workman was reinstated on 03.04.1984,

he was regularized vide order dated 30.08.1991, while other junior workmen were adjusted in the penal of year 1983-84, thereby violating of fair labour practice and causing prejudice to the applicant workman. The applicant has also stated that similarly Amarjeet Singh and Abdul Aziz were also adjusted in the year 1992, but in pursuance of the Hon'ble CAT, Lucknow in OA 466/1991 & 510/93, they were regularized in the year 1983-84. Other workman Sri Pratap Bahadur and Sri Ahmad Ali in furtherance of the direction given by Hon'ble CGIT, Lucknow in I.D. 28/04 & 12/05 they have been adjusted in the year 1983-84 penal. With the above pleadings the workman has prayed to get him regularized in the year 1983-84 penal with all consequential benefits and back wages etc...

4. The management has filed written statement, wherein it has been admitted that the workman was engaged as daily rated casual about alongwith many other workers who had got the job by fraudulent means. The Railway Administration found that they have been engaged on the basis of fake and fictitious papers so the matter was referred to Vigilance branch and the services of the workers were terminated on 04.09.1981.

5. It has also been stated in the written statement that some of the workers including applicant preferred a I.D. Case No. 48 of 1983 before CGIT, Kanpur and got award on 01.01.1987 in their favour, The Railway Administration reengaged the applicant as well as other similarly situated workers and provided them all service benefits after empanelment and screening which is necessary as per Railway Rules, However the worker is re-engaged prior to the Award passed by the Presiding Officer, CGIT, Kanpur as he himself admitted in the claim statement. The union which is unrecognized in the Railway Administration and no locus standi to raise the industrial dispute and sought a relief which is not legally tenable. The industrial dispute is referred after lapse of more than 25 years without any rhyme and reason or without any good cause of condonation of delay. The present industrial dispute is liable to be rejected on the point of limitation. The present demand of worker is not legally maintainable because of as per Railway Rule 2511 and amended para 2511(1), in which the seniority inter se-Determination is clearly mention and upon the same Railway Rule Hon'ble Supreme Court in case of M.Ramakotiah and other versus Union of India and other cited in 2007(6) AWC 6556 (SC) provided that the seniority of worker to be reckoned from the date of their regular appointment.

6. The management has emphasized that in compliance of the direction given by Hon'ble Supreme Court 2007 (6) AWC 6556 M. Ramakotiah and other versus Union of India and others, the seniority matter has to be determined accordingly.

7. The management has further stated that I.D. Award No. 48/1983 which was decided on 01.01.1987 and in the award the name of applicant is mentioned alongwith

206 other workers and Railway Administration has given the benefits of Award to the workers, which were permissible. The worker union sought the relief for posting of cleaner by mentioning the name in the list of 1983-84 (Panel), which is not possible because the seniority of other employees will be effected and they are not arreyed as party in present industrial dispute and if the relief is granted several other workers may prefer the matter in courts because of their seniority will also be effected. In this concern several employees alongwith S.N. Chaurasia preferred a writ petition before Hon'ble High Court, Lucknow Bench, Lucknow against the interpolation of worker Pratap Bahadur in the panel of 1983-84. The matter is subjudice and pending before Hon'ble High Court.

8. The management has emphasized that in the light of the direction given by Hon'ble Supreme Court the present claim is misconceived and liable to be rejected with special cost.

9. Thereafter rejoinder W6 was filed with strong denial of the grounds taken in the written statement while reiterating the pleadings of the claim statement.

10. The management alongwith M-7 has filed several documents. The workman Mangal Prasad filed affidavit W-8 in evidence. Several opportunity was provided to the workman to appear in the court for his cross examination but he did not turn up, consequently my learned predecessor on 16.04.2014 closed the opportunity of his cross examination and case was fixed for management evidence. Since the workman was never present for his cross examination, therefore the management also preferred not to adduce any evidence.

11. The workman despite being giving sufficient opportunity, failed to adduce any evidence before this Tribunal in support of claim statement. Therefoer the demand of the union for refixation of the workman Mangal Prasad in the panel year 1983-84, can not be termed as legal and justified. The workman is not entitled to any relief. The version taken by management in written statement appears to be more reasonable and cogent.

12. Under the circumstances and the facts mentioned herein, no relief is legally required to be given to the applicant/workan Sh. Mangal Prasad. The reference under adjudication is answered as No. Claim Award.

13. Award as above

Lucknow  
05.08.2015

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 19 अगस्त, 2015

का०आ० 1669.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एनएबीएआरडी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 148/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/08/2015 को प्राप्त हुआ था।

[सं एल-12012/113/94-आई आर (बी 1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th August, 2015

**S.O. 1669.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 148/95) of the Cen. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Nabard, and their workmen, received by the Central Government on 19/08/2015.

[No. L-12012/113/94-IR (B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

**No. CGIT/LC/R/148/95**

Shri Punnuram Chouhan,  
In front of Janta Quarter 22  
Harshwardhan Nagar,  
Bhopal.

....Workman

#### Versus

The DGM,  
NABARD,  
Behind Habibganj Police Station,  
Bhopal

....Management

#### AWARD

Passed on this 2nd day of July 2015

1. As per letter dated 7.8.95 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/113/94-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of District General Manager, Nabard, Bhopal in terminating the services of Shri Punnuram Chouhan w.e.f. 4-11-91 is justified or not? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/5. Case of workman is that he was appointed on 22-10-88 on pay of Rs. 600 per month for electrical work in residential buildings by IInd party as per letter dated 29-3-98, workman was also appointed to look after maintenance work of sub-station. He was appointed on pay of Rs. 1200 per month. His work was satisfactory. There

was no complaint from any corner. His services were orally terminated from 5-11-91 without assigning reasons. The application submitted by workman on 13-11-91, 14-11-91, 19-11-91 were not replied. IInd party did not consider his representations. Termination of his service is in violation of principles of natural justice. He was not given opportunity of hearing. When dispute was raised before ALC, IInd party filed reply contending that workman was engaged on contract basis, any contract was not produced. Workman prays for his reinstatement with consequential benefits.

3. IInd party filed Written Statement at Page 8/1 to 8/6 opposing claim of the workman. IInd party contented that is not an industry covered under ID Act. Ist party is not covered as workman under ID Act. IInd party is corporation established under Nationalised Bank for Agricultural and Rural Development Act 1981. Workman as engaged as contractor to attend the complaints of the residents of the Bank's staff quarters relating to electrical works. Initially he was engaged at Rs. 600 per month, subsequently workman was awarded contract for attending work of additional quarters. It was agreed to pay Rs. 750 per month to the workman. from 23-7-89, the contract of maintenance was awarded to him. There is no employee relationship. It is reiterated that workman was required to attend maintenance work of electric in staff colony. He was to attend complaint of residents. Workman was not appointed as employee for doing regular jobs. He was engaged for maintenance of electrical work. it is denied that workman was appointed by IInd party at Rs. 1200 per month. There was no question of his satisfactory work as the Ist party was not employee of the Bank. There was no question of issuing chargesheet or conducting enquiry against workman. It is contented that M/s Reliable services were doing maintenance work in staff colony since July 1989. IInd party No. 2 Dy. General Manager not appointed the workman. Mr. Ghosh, Development Authority have no authority to appoint workman. The claim of workman is not tenable.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- |   |                |
|---|----------------|
| (i) Whether the establishment of IInd party is covered under Section 2(aa) of ID Act?                             | In Affirmative |
| (ii) Whether the action of the management of District General Manager, NABARD, Bhopal in terminating the services |                |



of Shri Punnuram  
Chouhan w.e.f. 4-11-91 is  
justified?

In Negative

- (iii) If so, to what relief the  
workman is entitled to?" As per final order.

### REASONS

5. IInd party has contented that it is not corporation established under Nationalised Bank for Agricultural and Rural Development Act 1981.

6. Management filed affidavit of evidence of witness Shri Sudhir Kumar Jannawar has stated that NABARD is not an industry covered under ID Act and Ist party is not workman under ID Act. Ist party was independent contractor. The affidavit of evidence of management's witness is silent what activities are carried by NABARD. Section 2(j) of ID Act defines industry—

"Industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workman;

The definition includes was amended as per Act 46 of 1982. As per amended Section 2(c) of said Act, Industry means—

"industry" means any systematic activity carried on by co-operation between an employer and his workmen (whether such workmen are employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature), whether or not,—

- (i) any capital has been invested for the purpose of carrying on such activity; or
- (ii) such activity is carried on with a motive to make any gain or profit, and includes—
  - (a) any activity of the Dock Labour Board established under section 5A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948);
  - (b) any activity relating to the promotion of sales or business or both carried on by an establishment, but does not include—
    - (1) any agricultural operation except where such agricultural operation is carried on in an integrated manner with any other activity (being any such activity as is referred to in the foregoing provisions of this clause) and such other activity is the predominant one,

The pleadings in written Statement filed by IInd party and evidence by management are silent that it is engaged

in any kind of sovereign functions of the Government or institutions which are excluded under amended Section 2(j) of ID Act. In absence of such evidence, the contentions of IInd party that it is not an industry under ID Act cannot be accepted. Therefore I record my finding in Point No. 1 in Affirmative.

Point No. 2- workman has filed affidavit of evidence that he was appointed on 22-10-88 on pay Rs. 600 per month for looking after the electrical work. As per letter dated 29-3-89, he was temporarily appointed to look after electrical works at Sub Station and residential quarters. He was appointed on pay Rs. 1200 per month. His services were orally discontinued from 5-11-91. His representations were not considered by IInd party. He worked continuously more than 3 years. In his cross-examination, workman says his work was to look after electrical implements. He admits his signature at M-1 marked by letters A-A. He was not engaged for work of cleaning water tank. He was doing said work in directions of the Higher officers. He was getting said work done through labours, the payment was made to him. First he was submitting estimate. He was getting some material from office, some material he used to purchase from market. Workman denied that he was engaged as contractor. He denied that he was also taking other work on contract. He was paid Rs. 40 per day. In his further cross-examination, workman says initially he was paid Rs. 600 per month. Sometimes he was paid Rs. 1350 inclusive of overtime. He was not getting allowances. PF contribution was not deducted from his pay. After July 90, he had done electrical work in the colony. He admits his signature at M-5 to M-10. That he received payment by cheque. Letter Exhibit M-10 was written by him. He admits his signature shown by letters A-A. the evidence of workman that he was working with IInd party from 22-10-88 to 4-11-90 is not shattered.

8. IInd party has contented that workman was engaged as contractor for maintenance of electrical works in the colony. The affidavit of evidence of managements witness Shri Sudhir Kumar Jannawar is filed. Management's witness in his cross examination says that attendance register is maintained for clerks and peons. Exhibit M-1 © is copy of Attendance Register. Register of payment is maintained by the Bank. That no enquiry was made by the Bank about signature marked by letter A-A, the bank maintains cash book, ledger. The Bank did not produce leave register. Management's witness in his affidavit says that Shri H.P.Ghosh Development Officer has no authority to appoint anyone including workman as employee for casual type of work. That document filed by workman are fabricated. The electrical maintenance is carried out on contract basis, no appointment was made for said work.



9. Exhibit marked by letter A is clear that workman was engaged for electrical work in residential quarters at Rs. 600 per month. As per letter Exhibit B, the workman was appointed as electrician for maintenance of sub station and building by Development Officer Shri H.P.Ghosh. Those documents contradict evidence of workman. the evidence of management's witness that documents produced by workman are fabricated, forged is not supported by cogent evidence. In view that workman was appointed as per document Exhibit B, relationship of employer employee is established. IInd party has not produced documents about engagement of workman on contract basis. workman defined under Section 2(s) of ID Act. The definition is produced as under:—

"Workman means any person including an apprentice employed in any industry to do any manual, unskilled, skill, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied and for the purpose of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

- (i) Who is subject to Air force Act, 1950 or the Army Act, 1950 or
- (ii) Who is employed in the police service or as an officer or other employee of a prison, or
- (iii) Who is employed mainly in a managerial or administrative capacity or
- (iv) Who being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupee per mensem or exercises a either by the nature of the duties attached to the officer or by reason of the power vested in him, functions mainly of a managerial nature."

The workman engaged on pay Rs.600 per month for maintenance of electrical work is squarely covered as workman under Section 2(s) of ID Act. The contentions of IInd party cannot be accepted. The bunch of citations are produced. Considering the evidence discussed above, the detailed discussion of ratio held in citations is not necessary. The evidence clearly shown that workman was continuously working with IInd party from 22-10-88 till November 1981. His services are terminated without notice is in violation of Section 25-F of ID Act. Therefore I record my finding in Points No.2 in Negative.

10. Point No.3— In view of my finding in points No. 2, the services of workman are terminated in violation of section 25-F of ID Act, question arises whether he is entitled for reinstatement with backwages. The evidence clearly shows workman was appointed for maintenance of electrical work on Rs.600 per month enhanced time to time. workman was also engaged for maintenance work at sub station. He worked more than 3 years. There is no evidence that workman was paid retrenchment compensation or termination notice was issued to him. considering the short span of working, workman was not appointed on pay scale as regular employee of the Bank, reinstatement of workman would not be appropriate. Considering working for about 3 year, compensation Rs. 60,000 would be reasonable. Accordingly I record my finding in point No.3.

11. In the result, award is passed as under:-

(1) The action of the management of District General Manager, NABARD, Bhopal in terminating the services of Shri Punnuram Chouhan *w.e.f.* 4-11-91 is not proper.

(2) 2nd party is directed to pay compensation Rs. 60,000/- to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 अगस्त, 2015

**का०आ० 1670.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दक्षिण पूर्व रेलवे के प्रबंधतंत्र के संबंध निर्योजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट संदर्भ संख्या (295/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/08/2015 को प्राप्त हुआ था।

[सं० एल-41012/158/99-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th August, 2015

**S.O. 1670.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 295/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jablapur as shown in the Annexure in the industrial Dispute between the the management of South Eastern Railway and their workmen, received by the Central Government on 19/08/2015.

[No. L-41012/158/99-IR(B-1)]

SUMATI SAKLANI, Section Officer

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR  
COURT, JABALPUR****NO. CGIT/LC/R/295/99**

Shri B. Bangaraiah,  
Ex-Bungalow Peon,  
Small Hut Nr. Rly Qtrs No. 903/1,  
A Type Quaters,  
New Construction Colony,  
Bilaspur (MP)

.....Workman

*Versus*

Dy. Chief Signal and Telecommunications  
Engineer (Construction),  
South Eastern Railway,  
Bilaspur (MP)

.....Management

**AWARD**

Passed on this 18th day of June 2015

1. As per letter dated 30-8-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-41012/158/99/IR(B-I). The dispute under reference relates to:

"Whether the action of the Dy. C.S.T.E. (Const) Bilaspur in terminating the services of Shri B. Bangaraiah, workman *w.e.f.* 5-9-1997 is justified? If not, to what relief the said workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/3 to 2/14. Case of workman is that he passed SCC Certificate Exam in October 1992. His date of birth is 19-6-75. After screening of the proposal by SDE, he was appointed on 16-1-97. He was posted as Bungalow peon in office of Dy. CSE, Bilaspur. He was engaged as bungalow peon on daily rate pay from 16-1-97. After completing 180 days service he was given temporary status of Railway employees. After getting temporary status, workman was given regular scale benefit as per Vth Pay Commission from July 97 onwards. The workman was medically examined on 21-1-97 without any chargesheet, order of his termination was issued on 5-9-97. Workman submits that he was not given any letter of warning, he was not allowed hearing before issuing termination order. The order of his termination is high handed act. It is arbitrary. Workman reiterates that he approached various authorities, SC ST Commission and appeal to higher authorities. He did not get response. He had also challenged order of his

termination filing appeal on 1-1-1998. His appeal was rejected. Principles of natural justice were denied in his matter. That as per section 25 B of ID act, employer has to maintain muster roll of the workman. That casual labour treated as temporary staff are entitled to all rights and benefits admissible to temporary railway servants. That no enquiry was conducted against him before terminating his services. That General Manager is Appointing Authority. Termination by Dy. CST is illegal. That temporary employees cannot be removed. He is allowed benefit of Article 311 of the constitution. Workman has referred to principles laid down in various cases. Workman prays that termination of his service is illegal. Workman prays for monetary reliefs.

3. IInd party filed Written Statement at Page 9/1 to 9/2 opposing claim of the workman. That the workman was engaged on 10-1-97 on casual rate. Workman was not engaged on 18-1-96. After 180 days continuous service, workman was given benefit of Central Pay commission. Temporary status was not accorded to him. Vth Pay commission was not implemented in July 97. Workman deposited medical fees before acquiring medical fitness as per the rules. It is reiterated that temporary status was not awarded to workman due to non-completion of requisite period. Bungalow peon is not attached to the bungalow of the officers. On inspection by Dy. CST, Bilaspur attendance was followed. That misbehavior to workman doesnot fulfill to issue certificate of his working. The warning and counseling of workman was done time to time. There was no improvement. Termination letter was served on him.

4. Workman filed rejoinder at Page 11/1 to 11/2 reiterating his contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |      |   |                     |
|------|---|---------------------|
| (i)  | Whether the action of the Dy. C.S.T.E. (Const) Bilaspur in terminating the services of Shri B. Bangaraiah, workman <i>w.e.f.</i> 5-9-1997 is justified? | In Negative         |
| (ii) | If not, what relief the workman is entitled to?"  | As per final order. |

**REASONS**

6. Workman is challenging termination of his services. The documents are produced by workman. Exhibit W-4 is letter given by workman to the management. It shows that he was kept as Bungalow peon as trial basis from 18-1-96 to 10-1-97. On completion of one year, he was issued the post on daily rate basis etc. W-7, 8 are letters addressed to ALC in the matter of conciliation of dispute. Exhibit W-1 is copy of circular dated 9-4-64 in the matter of employment of casual labours. W-2 is copy of circular dated 7-5-64 in the

matter of employment of casual labours. Exhibit W-3 is part of the same circular requiring to show the date of engagement, date of termination, nature of job etc. Exhibit W-4 is copy of proforma related to service card of casual labour. Exhibit W-5 is copy of circular dated 19-6-81 in the matter of engagement of casual labour. W-6 is copy of Board's letter dated 12-11-1981.

7. Workman was engaged as a bungalow peon. Workman filed affidavit of his evidence narrating details about his date of birth qualifications, his engagement from 10-1-97, his medical examination conducted on 21-1-97. Workman was not served with chargesheet or no punishment was imposed against him. Workman in his cross-examination says he was working as bungalow peon. He was appointed on 10-1-97. He discontinued to work till 5-9-97 for 236 days. He was appointed by CST, order in writing was issued to him. Termination order was not received.

8. Witness of management Shri Ram Sevak filed affidavit of his evidence. He says that workman was appointed as bungalow peon on 10-1-97. Workman was disobeying orders of his superior. His behavior was not proper. Despite of warnings issued, improvement was not seen. Order of termination was issued on 5-9-97. Management's witness in his cross-examination says his affidavit is based on documents. He had seen the appointment letter as bungalow peon. Workman had refused to work. He had not seen letter of termination 3 years. period is required for regularization of services of Bungalow peon. Benefits of temporary status is not allowed to Bungalow peon. Management's witness was unable to tell whether workman was paid retrenchment compensation. Documents produced Exhibit W-1 shows that workman was posted as Bungalow peon from 10-1-97. He was transferred vide letter dated 28-5-96 on daily rate. W-2, 2 (a) are documents relating to medical examination of workman W-3 is letter of termination of workman from 5-9-97.

9. Copy of Railway Manual is produced for perusal. It provides that

"Casual labours engaged on open line who continue to do the same work for which they were engaged or other work of the same type for more than 120 days without a break will be treated as temporary on completion of 120 days of continuous employment. Casual labour on projects who have put in 180 days continuous service on works of the same type are entitled for 1/30th of the minimum of the appropriate scale of pay plus DA. Grant of temporary status to project casual labour is regulated by instructions separately issued by Railway Board."

10. Workman had completed 236 days service. He was entitled to temporary status. After getting temporary status,

services of workman could not be terminated without enquiry and therefore termination of service of workman is illegal. For above reasons, I record my finding in Point No. 1 in Negative.

11. Point No.2- workman is terminated without enquiry even after being entitled to status of temporary employee, question arises whether workman is entitled for reinstatement with backwages. Workman had hardly worked for 236 days therefore reinstatement of workman would not be justified. considering short period of working, compensation Rs. 75,000/- would be appropriate. Accordingly I record my finding in Point No. 2.

12. In the result, award is passed as under:-

- (1) The action of the Dy. C.S.T.E. (Const) Bilaspur in terminating the services of Shri B.Bangaraiah, workman w.e.f. 5-9-1997 is not proper and legal.
- (2) Ind party is directed to pay compensation Rs. 75,000/- to the workman within 30 days from the date of notification of award.

In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

13. Let the copies of the award be sent to the Government of India, Ministry of Labour & employment as per rules.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 अगस्त, 2015

कांआ 1671.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार छिंदवाडा सिओनी क्षेत्रीय ग्रामीण बैंक प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ सं. 108/97) को प्रकाशित करती है जो केन्द्रीय सरकार को 19-08-2015 को प्राप्त हुआ था।

[सं एल-12012/35/96-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th August, 2015

**S.O. 1671.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 108/97) of the Central Government Industrial Tribunal Cum Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Chhindwara Seoni Kshetriya Gramin Bank and their workmen, received by the Central Government on 19/08/2015.

[No. L-12012/35/96-IR(B-1)]

SUMATI SAKLANI, Section Officer

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR  
COURT, JABALPUR****No. CGIT/LC/R/108/97**

PRESIDING OFFICER: SHRI R.B. PATLE  
Secretary,  
MP Bank Employees Association,  
C/o Bank of India,  
Chhindwara

Workman/Union

*Versus*

The Chairman,  
Chhindwara Seoni Kshetriya Gramin Bank,  
Chhindwara

Management

**AWARD**

Passed on this 3rd day of July 2015

1. As per letter dated 26-3-97 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No.L-12012/35/96-IR(B-I). The dispute under reference relates to:

"Whether the action of the Chairman, Chhindwara Seoni Kshetriya Gramin Bank, Chhindwara (MP) in terminating the services of Shri Kuber Singh Verma from Panjara Branch of Chhindwara Seoni Kshetriya Gramin Bank w.e.f. 5-8-94 is justified and legal? If not, to what relief the workman is entitled to?"

2. Ist party workman is challenging termination of his service in the dispute under reference. Even after issuing notices, the Union did not participate in the proceeding, no statement of claim is filed. Ist party is proceeded proceeded ex parte on 14-10-2014.

3. IInd party management also not filed Written Statement. From conduct of the parties, it is clear that the parties are not pursuing or participating in the dispute.

4. In the result, award is passed as under:-

"Reference is disposed off as No Dispute Award."

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 अगस्त, 2015

का.आ. 1672.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बांगिया ग्रामीण विकास बैंक प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण कोलकता के पंचाट (संदर्भ संख्या 28/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 19/08/2015 को प्राप्त हुआ था।

[सं. एल-12011/04/2013-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th August, 2015

**S.O. 1672.**—in pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 28/2013) of the Central Government Industrial Tribunal Cum Labour Court, Kolkata as shown in the Annexure in the Industrial Dispute between the management of Bangiya Gramin Vikas Bank and their workman, received by the Central Government on 19-08-2015.

[No. L-12011/04/2013-IR(B-1)]

SUMATI SAKLANI, Section Officer

**ANNEXURE****CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL AT KOLKATA****Reference No. 28 of 2013**

**Parties :** Employers in relation to the management of Bangiya Gramin Vikas Bank

**AND**

Their workmen.

**Present :**

Justice Dipak Saha Ray, Presiding Officer

**Appearance :**

On behalf of the : None

Management

On behalf of the : None

Workmen

State : West Bengal. Industry : Banking.

Dated: 12th August, 2015.

**AWARD**

By Order No. L-12011/04/2013-IR(B-I) dated 21.05.2013 the Government of India, Ministry of Labour in exercise of its powers Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management is justified by Transferring the members of the Union as per Annexure-V without following guidelines of Posting & Transfer/ Placement for Officers, Clerks and Sub-Staff is legal and/ for justified? If not, what relief the workmen are entitled to?"

2. When the case is taken up today for hearing, none appears on behalf of either of the parties. It appears from



the record that the union is absent since 26.03.2014. During this period union has been given 9 opportunities to appear before the Tribunal. Even then it has not been turned up.

3. Considering the facts and circumstances it appears that the union is not willing to proceed with the case further. So, no fruitful purpose will be served in keeping the matter pending.

4. In view of the above facts and circumstances, the present reference is disposed of by passing a "No Dispute Award".

JUSTICE DIPAK SAHARAY, Presiding Officer

Dated, Kolkata,

The 12th August, 2015.

नई दिल्ली, 19 अगस्त, 2015

का.आ. 1673.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मध्य रेलवे प्रबंध तंत्र के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 126/02) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19.08.2015 प्राप्त हुआ था

[सं. एल-41012/59/2002-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th August, 2015

**S.O. 1673.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 126/02) of the Central Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Central Railway and their workmen, received by the Central Government on 19-08-2015.

[No. L-41012/59/2002-IR (B-1)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

No. CGIT/LC/R/126/02

Smt. Kala Bai, LR-widow of  
Late Shri Ashok Kumar,  
S/o Mewalal, 3,  
Bunglow, RB-I, 198-G,  
Itarsi (MP)

Workman

*Versus*

Assistant Mechanical Engineer (Gen.),  
Central Railway,  
Itarsi (MP)

Management

#### AWARD

Passing on this 29th day of June 2015

1. As per letter dated 27-08-02 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-41012/59/2002-IR (B-II). The dispute under reference relates to:

"Whether the action of the management of Asstt. Mechanical Engineer (Gen.), Central Railway, Itarsi in terminating the services of Shri Ashok Kumar S/o Mewalal *w.e.f.* 3-2-98 after imposing punishment, is justified? If not, what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/4. Case of Ist Party workman is that he was appointed as Khalasi Helper in Mechanical branch on 18-08-82. His working was satisfactory, Services of workman were terminated. The workman challenged order of termination dated 2-2-98 in appeal. Appellate Authority without giving him opportunity of hearing, illegally dismissed his appeal. Workman further submits that he was not supplied documents about unauthorized absence alongwith chargesheet, principles of natural justice were not followed. He was not allowed opportunity of Defence assistance by Enquiry Officer. Enquiry Officer violated principles of natural justice. Examination of his service on basis of findings in illegal enquiry is illegal. Enquiry Officer did not allow him personal enquiry. The punishment of dismissal imposed against him is excessive. Workman prayed for his reinstatement with backwages.

3. Workman died during pendency of reference proceeding. His widow is substituted as LR.

4. Management filed Written Statement at Page 13/1 to 13/4 opposing claim of the workman. Management admitted termination of service of workman and dismissal of appeal filed by the workman. management submits that enquiry was conducted against workman giving opportunity for his defence. The workman did not avail opportunity of Defence Assistant allowed to him. Workman was given opportunity to cross-examine management witness. Enquiry Officer put up certain questions to the deceased employee for removing ambiguity. Defence of workman was he remained absent from duty due to illness of his wife. Workman failed to produce any medical certificate. It is reiterated that enquiry was properly conducted. If enquiry



is found vitiated, IInd Party be permitted to prove misconduct adducing his evidence.

5. As per order dated 22-5-2014, enquiry conducted against workman was found illegal. IInd Party was permitted to prove misconduct.

6. Considering pleading on record and findings of preliminary issue, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

"(i) Whether the misconduct alleged against workman is proved from evidence in Enquiry proceedings?	In Affirmative
(ii) Whether the punishment of dismissal imposed against workmen is proper and legal?	In Negative
(ii) If not, what relief the workman is entitled to?"	As per final order.

#### REASONS

7. Enquiry conducted against workman was found illegal. Management was allowed opportunity to prove misconduct against workman. Management filed affidavit of evidence of Shri R.D.Malviya. The affidavit of said witness is devoted about enquiry conducted against workman. His affidavit is silent about the period of unauthorized absence of workman. Management filed affidavit of other witness Bhagwandas Malviya. In his affidavit said witness has narrated that deceased workman was absent from duty on 2/1/97, 5/1/97 to 6/1/97, 9/1/97 to 10/1/97, 27/1/97, 13/2/97 to 17/2/97, 3/3/97 to 5/3/97, 9/6/97 to 12/6/97-Total 18 days. Workmen had not produced any document about illness of his wife. Evidence of management's witness remained unchallenged. Evidence of management's witness Bhagwandas proves change of unauthorized absence against workmen. Therefore I record my finding in Point No.1 in Affirmative.

8. Point No.2- the punishment of dismissal is imposed against workman for unauthorized absence. From evidence of management's witness Bhagwandas, period of unauthorized absence is only 18 days. Punishment of dismissal is imposed against workman for such short period of unauthorized absence is shockingly disproportionate. For unauthorized absence of only 18 days, the punishment of dismissal imposed against workman cannot be said proper and legal. For above reasons, I record my finding in Point No.2 in Negative.

9. Point No.3 In view of my finding in Point No.2, punishment of dismissal imposed against workman for unauthorized absence of 18 days. Workman died during

pendency of reference. Therefore reinstatement of workman is not possible. Workman was in service from 18-8-82. His service were dismissed as per order dated 2-2-98. Workman had completed about 16 years of service. Punishment of dismissal imposed against workman is illegal. However reinstatement of workman cannot be allowed as workman is dead. Considering the circumstances, punishment of dismissal is modified to compulsory retirement. Accordingly I record my finding in Point No.3.

10. In the result, award is passed as under:-

- (1) The action of the management of Asstt. Mechanical Engineer(Gen.), Central Railway, Itarsi terminating the services of Shri Ashok Kumer S/o Mewalal w.e.f.3-2-98 is not proper.
- (2) Punishment of dismissal is modified to compulsory retirement. Retiral benefits to member of deceased workman be allowed as per rules.
- (3) IInd party shall pay cost of Rs.2000 to the LR.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 अगस्त 2015

कांआ 1674.—औद्योगिक विवाद अधिनियम, 1947(1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन रेलवे कटरिंग एण्ड टुरिजम कारपोरेशन लि० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कोलकाता के पंचाट (संदर्भ संख्या 06/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/08/2015 को प्राप्त हुआ था।

[सं० एल-41012/59/2013-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th August, 2015

**S.O. 1674.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 06/2014) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Kolkata as shown in the Annexure, in the industrial dispute between the management of Indian Railway Catering Tourism Corpn. Ltd. and their workmen, received by the Central Government on 19/08/2015.

[No. L-41012/59/2013-IR (B-1)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

#### Reference No. 06 of 2014

**Parties:** Employers in relation to the management of Indian Railway Catering and Tourism Corpn. Ltd.

**AND**

Their workmen.

**Present:**

Justice Dipak Saha Ray, Presiding Officer

**Appearance:**

On behalf of the : Ms. P. Banerjee, Ld.  
Management Counsel for EEPIC India.

On behalf of the : None.  
Workmen

State: West Bengal.

Industry: Railways

Dated: 4th August, 2015.

**AWARD**

By Order No. L-41012/59/2013-IR (B-I) dated 30.01.2014 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

"Whether (1) the action of the management is justified by terminating the service of workman without following statutory rules and regulations? (2) Whether the workman is entitled to receive (i) Special Personal Allowance, (ii) Medical Allowance and (iii) Washing Allowance at par with the regular workman is justified or not? If not, what relief the workman is entitled to?"

2. When the case is taken up today for hearing none appears on behalf of concerned workman though the management is represented by its Ld. Counsel. It appears from the record that the workman is not appearing before the Tribunal since 04.03.2015.

3. Considering the fact and circumstances it appears that the concerned workman is not willing to proceed with the case further. So no fruitful purpose will be served in keeping the matter pending.

4. In view of the above facts and circumstances, the present reference is disposed of by passing a "No Dispute Award".

Dated, Kolkata,  
The 4th August, 2015.

JUSTICE DIPAK SAHA RAY, Presiding Officer

नई दिल्ली, 19 अगस्त, 2015

कांआ 1675.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर पूर्व रेलवे प्रबंध तंत्र के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण,

लखनऊ के पंचाट (संदर्भ संख्या 32/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/08/2015 को प्राप्त हुआ था।

[सं० एल-41011/32/2014-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th August, 2015

**S.O. 1675.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 32/2014) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of North Eastern Railway and their workmen, received by the Central Government on 19/08/2015.

[No. L-41011/32/2014-IR (B-1)]

SUMATI SAKLANI, Section Officer

**ANNEXURE**

**CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT,  
LUCKNOW**

**PRESENT**

RAKESH KUMAR, Presiding Officer  
I.D. No. 32/2014  
Ref. No. L-41011/32/2014-IR (B-I) dated: 06.05.2014

**BETWEEN**

Anchal Sangthan Secretary  
Rail Sevak Sangh  
C/o Shri D.P. Awasthi  
49, Tilak Nagar  
Lucknow  
(Espousing cause of Mo. Shubhanath)

**AND**

1. Sr. Divisional Personnel Officer  
North Eastern Railway  
DRM Office, Ashok Marg, Lucknow
2. The Chief Medical Superintendent  
North Eastern Railway  
Gonda (UP)

**AWARD**

1. By order No. L-41011/32/2014-IR (B-I) dated: 06.05.2014 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2 A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Anchal Sangthan Secretary, Rail Sevak Sangh C/o Shri D.P. Awasthi, 49, Tilak Nagar, Lucknow and Sr. Divisional Personnel Officer, North Eastern Railway DRM Office, Ashok Marg, Lucknow & the Chief Medical Superintendent, North Eastern Railways, Gonda (UP) for adjudication.

2. The reference under adjudication is:

“क्या पूर्वोत्तर रेल प्रशासन, लखनऊ व गोंडा द्वारा शुभनाथ पुत्र श्री महेश प्रसाद, सफाईवाला को पुरानी पेंशन न देकर नई पेंशन दिया जाना न्यायोचित एवं वैध है? यदि नहीं, तो कामगार किस राहत को पाने का हकदार है?”

3. On receipt of the reference order the workman's union was issued registered notice to file his statement of claim complete with relevant documents, list of reliance and witnesses before Tribunal on 17.07.2014 with an advance copy to the opposite party. The Secretary of the workman's union appeared before this Tribunal and requested for a date for filing of statement of claim.

4. On successive dates the management also turned up. Since the case was related to grant of old pension scheme instead of new pension scheme, the parties were advised to settle the dispute amicably through Lok Adalat. Accordingly, the case was taken up at Lok Adalat on 08.05.2015.

5. On 08.05.2015, Shri D.P. Awasthi, Secretary of the workman's union was present whereas the opposite parties were represented by Shri Upendera Kumar Sharma, Chief Welfare Officer.

6. The opposite party filed M-3, letter signed by Sri P.B. Prasad, Senior Divisional Personnel Officer, North Eastern Railway, Lucknow, enclosing circular No. 2012/F(E)III/I(1)/2 dated 29.10.2014 of the Railway Board. The management in letter M-3, referring circular dated 29.10.2014 has stated that the Railway Board, New Delhi vide their circular dated 29.10.2014 has directed to cover the employees who got temporary status prior to 01.01.2014 may be covered under Old Pension Scheme.

7. A copy of the M-3 was furnished to the workman's union. The authorized representative of the workman's union sought time to consult the workman; and accordingly, the case was taken up on 24.07.2015 at Lok Adalat. The Authorized representative of the workman's union, Shri D.P. Awasthi after going through the contents of letter, M-3 and circular dated 29.10.2014 showed willingness to withdraw the present industrial dispute being claim settled; and made an endorsement thereupon as under:

***"Since the relief claimed by the Union is been accepted by the Rly management. Further proceeding of this case may be dropped."***

8. In view of the submission/endorsement of the workman's union for dropping of the proceedings, there is no grievance left with the workman's union as the present industrial dispute pertains to non-grant of old pension to the workman by the railway management and the management of the Railway has granted the same vide circular 2012/F(E)III/I(1)/2 dated 29.10.2014 of the Railway Board. Resultantly, the industrial dispute stands settled;

and no relief is required to be given to the workman concerned. The reference under adjudication is answered accordingly.

9. Award as above.

RAKESH KUMAR, Presiding Officer

LUCKNOW.

06th August, 2015

नई दिल्ली, 20 अगस्त, 2015

**का०आ० 1676.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस.सी.सी. एल. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में अधिकरण/श्रम न्यायालय गोदावरीखनी के पंचाट (संदर्भ संख्या 64/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/08/2015 को प्राप्त हुआ था।

[सं० एल-22013/1/2015-आईआर (सी-2)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 20th August, 2015

**S.O. 1676.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Indus. Tribunal-cum-Labour Court, Godavarikhani (IT/ID/64/2010) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workmen, which was received by the Central Government on 20.08.2015.

[No. L-22013/1/2015-IR (C-II)]

RAJENDER SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT—CUM-VIADDL. DISTRICT & SESSIONS COURT, GODAVARIKHANI.

**Present :** SRIG.V. KRISHNAIAH,  
Chairman-cum-Presiding Officer.

#### INDUSTRIAL DISPUTE No. 64 OF 2010

Tuesday, the 7th day of July, 2015

**Between:—**

1. Seru Ravikanth @ Yeswant Teja, S/o.Late Srinivas, Age 4 years, Occ: Student under natural guardian of his grand mother.
2. Seru Sammakka, W/. Rajaiah, age 65 years, Occ: House Hold,  
  
R/o.Ambatpalli, Mandal Mahadevpoor, Distt. Karimnagar is the grand mother of Applicant No.1.

—Petitioners

**And**

The General Manager,  
Singareni Collieries Co.Ltd., Mandamarri Area,  
Mandamarri, District Adilabad.  
The Managing Director,  
Singareni Collieries Co.Ltd., Administration,  
Kothagudem, Dist.Khammam

—Respondents.

This case coming before me for final hearing in the presence of Sri S.Bhagavantha Rao, Advocate for the petitioners and of Sri D.Krishna Murthy, Advocate for the Respondents; and having been heard and having stood over for consideration till this day, the Tribunal delivered the following:—

### AWARD

1. This petition is filed U/Sec. 2(A)(2) of I.D. Act challenging the dismissal order dt.4-5-2005 passed by the respondents, praying for grant of lumpsum amount of Rs.5.00 Lakhs to the minor petitioner as per the settlements till he gets majority.

2. Allegations in the petition are as follows:—

One Seru Srinivas was given dependent employment in place of his father Seru Rajaiah on 17-02-2003. The respondent dismissed the said Srinivas after framing the following charge against him and holding domestic enquiry:—

### CHARGE:—

"25.25 Habitual late attendance or habitual absence from duty without sufficient cause"

Minor petitioner Seru Ravikanth is only son of Seru Srinivas and he represented by his grand mother Smt. Seru Sammakka. The respondents did not provide an amount of Rs.3.00 Lakhs in lieu of dependent employment to the minor petitioner. The petitioners are entitled to challenge the dismissal order of late Seru Srinivas. The dismissal order is pre-meditated and illegal. Hence, they prayed to allow the petition as prayed for.

3. In response to this challenge, respondents filed counter justifying the dismissal of the petitioner. The respondents company being mining industry is a Central Government subject and the petitioner ought to have approached the CGIT, Hyderabad. This petition is not maintainable before this Court and is liable to be dismissed.

Seru Srinivas was appointed in the respondents company as Badli Filler on 17-02-2003 on compassionate grounds as dependant of his father Sri Seru Rajam, Ex-Coal Filler. From the date of appointment Sri Seru Srinivas was irregular to his duties as such he was dismissed from services of the respondent company w.e.f., 04-05-2005 after conducting domestic enquiry as per company standing orders.

Seru Srinivas during his service declared the following as his dependents.

- a. Smt. Sammakka—Mother
- b. Smt. Rama Devi—Wife
- c. Sri Rajam—Father

Respondent's company is not aware of the relationship of Seru Srinivas, Ex-employee with petitioner No.1. As such the respondents are denying that the petitioner No.1 is the son of the ex-employee. The said Seru Srinivas, Ex-employee had never put in the minimum musters as required under Mines Act. Seru Srinivas, Ex-employee being an underground employee is expected to put minimum of 190 musters in a calendar year. The following attendance particulars indicates that Seru Srinivas, Ex-employee was not regular to his duties and in no year he had put in 190 musters during the period from 2003—2005.

Sl.No.	Year	No. of musters.
1.	2003	38
2.	2004	NIL
3.	2005	NIL

During the period from July, 2003 to December, 2003, Seru Srinivas, Ex-Employee had put in only 38 musters. As the above Act amounted to misconduct under Standing Orders Clause No.25.25 of the company, the petitioner was charge sheeted. After considering the documentary evidence and other evidence on record, the enquiry officer submitted his unbiased report holding that the petitioner is guilty of misconduct under company standing orders. The relevant clause of standing orders reads as under:

*"Clause 25(25) - Habitual late attendance or habitual absence from duty without sufficient cause".*

4. The charge sheet and enquiry notice were sent to the permanent residential address of Seru Srinivas, Ex-Employee through RPAD, he received the same but failed to submit his explanation and failed to attend the enquiry. As such, exparte enquiry was conducted on 22-3-2004 and show cause notice was issued to him. As Seru Srinivas, Ex-Employee failed to approach the respondent company and to submit his explanation, the respondent's company was constrained to dismiss him from service. The said Seru Srinivas, Ex-Employee expired on 16-11-2005 by leaving behind petitioner No.1 etc., are not known to the respondent's company. As such the petitioners are put to strict proof of the same. Petitioner No. 2 did not approach the respondent's company for lump sum amount of Rs.3.00 Lakhs in lieu of dependent employment.

5. According to the respondents company rules only in case of death and medical invalidation by Medical Board while in service, the spouse of the deceased/medically unfit



employee is entitled to receive lump sum amount of Rs. 5.00 Lakhs or Monthly Monetary Compensation (MMC) of Rs. 6,000/- per month in lieu of dependent employment to one eligible male dependent. In the instant case as Seru Srinivas was dismissed from service of the respondents company for misconduct, the dependents of the ex-employee are not entitled to lumpsum amount of Rs. 5.00 Lakhs in lieu of dependent employment. The respondents company conducted the enquiry proceedings duly in accordance with the principles of natural justice and law giving full opportunity to the ex- employee. Therefore, the respondents pray to dismiss the petition without granting any relief.

6. During the course of hearing, Ex.W-1 to Ex.W-8 and Ex.M-1 to Ex.M-10 are marked.

7 Heard both sides. Perused the material papers on record.

8. Respondents filed written arguments.

9. On consideration of respective contentions of the parties, the following points require to be determined:—

1. "Whether this Tribunal has got jurisdiction?"

2. "Whether the petitioners are entitled to any relief?"

#### 10. POINT No:1

As per the Judgment of the Hon'ble High Court reported in 1997 (III) LLJ (Supp.) 11 between U. Chinnappa And Cotton Corporation of India, this Court has got jurisdiction to entertain the dispute raised by the petitioner. Hence, the point is accordingly answered in favour of the petitioner.

#### 11. POINT NO:2

Mother of the deceased workman (Seru Srinivas) and a minor boy said to be the son of the deceased workman are seeking indulgence of this Tribunal to set aside the dismissal order passed by the respondents company against the deceased workman, so that they can get consequential benefits.

12. The main charge against the deceased workman is that he had put in only 38 musters during the year 2003. Charge sheet is marked as Ex.M-1. Acknowledgement of the workman are marked as Ex.M-2 and M-2(a). It seems that the workman failed to submit his explanation to the charge sheet. Enquiry notice is marked as Ex.M-3 and it was acknowledged by the workman under Ex.M-4. Enquiry proceedings are marked as Ex.M-5 which shows that the workman did not choose to participate in the enquiry. Enquiry report is marked as Ex.M-6. The show cause notice is marked as Ex.M-7 to which also no explanation was given by the deceased workman. The deceased workman Seru Srinivas was appointed as Badli Filler on 17-2-2003 and he had put in only 38 musters till December, 2003 and remained absent on the remaining days. He was dismissed from service by order dt.28-4-2005 after conducting domestic enquiry. He died on 16-11-2005 and thereafter

this petition is filed in the year 2010. During the life time of Srinivas, he did not declare the minor petitioner as his son. Birth certificate of the minor son is not filed. The dependent certificate of the year 2006 issued by the then MLA marked as Ex.W-8 shows that it was issued for the purpose of claiming ex-gratia under Apath Bandu Accident Benefit Scheme. The name of the minor son is mentioned in the said certificate as "Chintu", age 4 years. Name of the minor petitioner is mentioned as "Ravikanth @ Yeshwanth" under Ex.W-7, certificate dt.15-7-2010 issued by Sarpanch, Grampanchayath, Ambatpalli. If really minor petitioner was born in the year 2003, the deceased would have declared the name of his minor son with the respondents' company. Admittedly the name of minor petitioner does not find place in the records of respondents' company. It can be seen from the admitted facts that the deceased failed to submit any explanation to the charge sheet and he did not attend the domestic enquiry also. Even after the enquiry, the deceased did not appear before the respondents company and failed to give explanation to the show cause notice with regard to the proposed punishment. During the years 2004 and 2005, the deceased not at all attended to his duties and—Nil—musters put in by him. Ever since his appointment in the year 2003 till his dismissal by order dt.28-4-2005, he had put in only 38 musters and no reasons for his absence are forthcoming.

13. It is argued by the learned counsel for the respondents that lumpsum amount of Rs. 5 00 Lakhs/MMC/ dependent employment are available in case of death of a workman while in service or medical invalidation by the medical board while in service. The deceased workman was dismissed from service after conducting domestic enquiry and paper publication by order dt. 28-4-2005 due to unauthorized absence from duty. As such the petitioners are not at all entitled to claim any of the above benefits. There is any amount of force and substance in the contentions of the learned counsel for the respondents. The documentary evidence placed before this court clearly proves the charge of unauthorized and habitual absenteeism to duties of the deceased workman. Considering all these facts, even assuming that the minor boy was born to the deceased Srinivas, it is not a fit case to set aside the dismissal order. Accordingly the petition is dismissed.

14. In the result, the petition is dismissed, but without any costs.

Typed to my dictation, corrected and pronounced by me in open Court, on this the 7th day of July, 2015.

G V. KRISHNAIAH, Chairman-cum-Presiding Officer

#### Appendix of Evidence

#### Witness Examined

For workman:-

-Nil-

For Management:—

-Nil-



**EXHIBITS**

For workman:—

Ex.W-1	Dt. 12-12-2005	Death certificate
Ex.W-2	Dt. 18-06-2003	Office order - Appointment orders as Badli Filler.
Ex.W-3	Dt. 14-01-2004	Charge sheet.
Ex.W-4	Dt. 14-01-2004	Charge sheet.
Ex.W-5	Dt. 28-04-2005	Dismissal order.
Ex/W-6	Dt. 02-07-2006	Demand letter.
Ex/W-7	Dt. 15-10-2010	Legal heirs certificate
Ex/W-8	Dt. 00-11-2006	Dependent certificate issued by Koppula Eshwar, MLA.

For Management:—

Ex.M-1	Dt. 14-01-2004	Charge sheet
Ex.M-2	Dt. 23-01-2004	Acknowledgement
Ex.M-2a	Dt. 23-01-2004	Acknowledgement
Ex.M-3	Dt. 04-03-2004	Enquiry notice
Ex.M-4	Dt. 05-03-2004	Postal Ack., card
Ex.M-5	Dt. 22-03-2004	Enquiry proceedings
Ex.M-6	Dt. 22-03-2004	Enquiry report
Ex.M-7	Dt. 01-12-2004	Show cause notice
Ex.M-8	Dt. 21-12-2004	Postal returned cover with Ack.
Ex.M-9	Dt. 04-02-2005	Petitioner's show cause notice published in Andhra Jyothi Telugu daily news paper,
Ex.M-10	Dt. 28-04-2005	Dismissal order.

नई दिल्ली, 20 अगस्त, 2015

का.आ. 1677.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस० सी० एल० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, गोदावरीखानी के पंचाट (संदर्भ संख्या 05/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/08/2015 को प्राप्त हुआ था।

[सं एल-22013/1/2015-आईआर (सी-2)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 20th August, 2015

**S.O. 1677.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Indus.Tribunal-cum-Labour Court, Godavarikhani (IT/ID/05/2012) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their

workmen, which was received by the Central Government on 20.08.2015.

[No. L-22013/1/2015-IR(C-II)]

RAJENDER SINGH, Section Officer

**ANNEXURE**

**BEFORE THE CHAIRMAN, INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT-CUM-VI ADDL.  
DISTRICT & SESSIONS COURT,  
GODAVARIKHANI**

Present:- SRI G.V. KRISHNAIAH,

Chairman-cum-Presiding Officer.

**INDUSTRIAL DISPUTE No. 5 OF 2012**

Monday, the 6th day of July, 2015

**Between:-**

Mohammad Saleem, E.C.No. 2794249,  
Ex.Fitter, S/o. Md. Naseeruddin, Age 46 years,  
C/o. Sri B.Amarender Rao, Advocate, Ganganagar,  
Godavarikhani, Dist. Karimnagar-505 209.

--- Petitioner

**And**

1. The Superintendent of Mines, Singareni Collieries Co. Ltd., Ravindra Khani No.5 Incline, Dist. Adilabad.
2. The Chief General Manager, Singareni Collieries Co.Ltd., Srirampur Area, PO Srirampur, District Adilabad.
3. The Chairman & Managing Director, Singareni Collieries Co. Ltd., PO. Kothagudem, Dist.Khammam.

--- Respondents

This case coming before me for final hearing in the presence of Sri B. Amarender Rao, Advocate for the petitioner and of Sri D. Krishna Murthy, Advocate for the Respondents; and having been heard and having stood over for consideration till this day, the Tribunal delivered the following:—

**AWARD**

1. This petition is filed U/Sec. 2(A)(2) of I.D. Act challenging the dismissal of the petitioner passed by the respondents praying for his reinstatement into service with continuity of service, all attendant benefits and full back wages.

2. Petitioner was dismissed from service by the respondents *vide* office order dt.05-05-2011 after holding domestic enquiry on the following charge.

**CHARGE:-**

"25(25) - Habitual late attendance or habitual absence from duty without sufficient cause during the period from 01-01-2009 to 31-12-2009"

Petitioner challenges his dismissal on the following grounds:-

- a) The petitioner was appointed as Fitter by the respondents company in the year 1988 and his services were regularized in the year 1989.
- b) Ever since the date of the appointment of the petitioner he served the respondent company effectively and put-in more than the (200) physical musters every year as against the minimum (100) musters. The performance of the petitioner from 1988 till 2003 is very good.
- c) While the petitioner was working as Fitter (underground), the underground atmosphere and coal dust did not suit his health and the petitioner suffered from TB & Asthama diseases from the year 2004 onwards. He underwent prolonged treatment in the respondent's company hospitals and other referral hospitals. Petitioner availed 6 months sick leave and another 6 months half pay leave for taking regular treatment. Due to underground work, he was not cured completely and he became very weak. As such, the petitioner applied to the Corporate Medical Board for medical examination by the Main Hospital, Kothagudem regarding surface job/ medical unfit for underground work. But the respondents paid deaf-ear and compelled the petitioner to perform underground duty and reduced one increment in 2007 and gave warning in 2008.
- d) The petitioner participated in the enquiry conducted by the respondents and deposed about his chronic ill-health during the course of his employment in the company and requested to provide him surface job. But the respondents unjustly victimized the petitioner and did not provide surface job.
- e) Punishment of dismissal from service is extremely harsh, highly excessive and shockingly disproportionate. Hence, the petitioner prays to allow the petition.

4. In response to this challenge, respondents filed counter justifying the dismissal of the petitioner. The respondents company being mining industry is a Central Government subject and the petitioner ought to have approached the CGIT, Hyderabad. This petition is not maintainable before this Court and is liable to be dismissed.

The petitioner was appointed in the respondents company as Fitter on 19-11-1986. The petitioner was a chronic absentee who has put in only 76 musters in the year 2009. Therefore he was charge sheeted *vide* letter dt. 20-02-2010. According to Section 52(2) of the Mines Act, 1852 an underground employee is required to put in

minimum musters of 190 and surface employee is expected to put in minimum of 190 musters in a calendar year. The following attendance particulars of the petitioner indicate the fact that the petitioner was not regular to his duties and in no year he had put in 190 musters during the period from 2004 to 2009.

Sl.No.	Year	No. of musters.
1.	2004	90
2.	2005	40
3.	2006	81
4.	2007	35
5.	2008	33
6.	2009	76
7.	2010	10
8.	2011	--

During the period from January, 2009 to December, 2009, the petitioner had put in only 76 musters. As the above act amounted to misconduct under Standing Orders Clause No. 25.25 of the company, the petitioner was charge sheeted. After considering the documentary evidence and other evidence on record, the enquiry officer submitted his unbiased report holding that the petitioner is guilty of misconduct under company standing orders.

5. The petitioner during the enquiry proceedings accepted his guilt for the charge levelled and further neither cross examined the management witnesses nor produced any documentary evidence to defend himself. Though the respondents sent show cause notice, it was returned with an endorsement "addressee refused to take". The respondents company after considering the past record of the petitioner and on findings that there were no extenuating circumstances for taking a lenient view was constrained to dismiss the petitioner from service. The respondents company conducted the enquiry proceedings duly in accordance with the principles of natural justice and law giving full opportunity to the petitioner. Therefore, the respondents pray to dismiss the petition without granting any relief to the petitioner.

6. During the course of hearing, Ex. W-1 to Ex. W-35 and Ex. M-1 to Ex. M-10 are marked.

7. Counsel for the petitioner filed Memo U/Sec. 11-A of I.D., Act stating that he is not challenging the validity of domestic enquiry conducted by the respondents and prayed this Tribunal to decide the quantum of relief to which the petitioner is entitled.

8. Heard both sides. Perused the material papers on record.

9. Respondents filed written arguments.

10. On consideration of respective contentions of the parties, the following points require to be determined:-

1. "Whether this Tribunal has got jurisdiction?"

2. "Whether the punishment of dismissal of the petitioner is justified and proportionate?"

#### 11. POINT No: 1

As per the Judgement of the Hon'ble High Court reported in 1997 (III) LLJ (Supp.) 11 between U. Chinnappa And Cotton Corporation of India, this Court has got jurisdiction to entertain the dispute raised by the petitioner. Hence, the point is accordingly answered in favour of the petitioner.

#### 12. POINT No: 2

Charge sheet is marked as Ex. M-1 and explanation of the petitioner there-to is marked as Ex.M-2. The detailed explanation under Ex. M-2 reveals that the petitioner was suffering from TB disease since 5 years and due to ill-health, he could not attend to his duties regularly. During the year 2004 and 2005, he consulted private practitioners and attended to his duties. During the year 2006 and 2007, he was on sick rolls availing half pay leave and took treatment in the company eye hospital, Ramakrishnapur. He performed duty in 2006 for some days due to which his health deteriorated in 2007 due to fever, cough and weakness. He was not able to walk properly and he reported same before the Colliery Manager during counseling. Under those circumstances, he applied for assessment by medical board. In the year 2008 he took treatment in company's hospital for one month. On using medicines, he recouped his health to some extent and was made fit by the Medical Board. Due to performing duties inspite of weakness, his health further deteriorated and the Colliery Manager permitted for 2nd time Medical Board, which was also informed to the A.G.M., Purely on account of ill-health and weakness, he was unable to perform his duties but not otherwise. The petitioner further stated that he got 4 children and mother dependent on him and two daughters have attained marital age and prayed for sympathetic consideration.

13. During the enquiry proceedings marked as Ex. M-4, he reiterated that he submitted written explanation to the charge sheet, which is admitted by the management witness P. Mallaiah, O.S., who was examined as MW-1. In the deposition statement before the enquiry officer under Ex. M-4, the petitioner reiterated the same defence. He categorically deposed that he was working as Fitter since 21 years that since 5 years he is suffering from T.B., that he had taken treatment in private hospitals also but he did not get any relief, that he availed special leave for six months and took treatment in the company hospitals, but there was no change in his health condition. He further stated that day by day his health was deteriorating and he was

becoming physically very weak and that his health was not permitting to discharge his duties in the underground. He clearly deposed that his health condition, his physical weakness and his mental depression about his health are the main reasons for his absenteeism. In the enquiry report under Ex. M-5, the enquiry officer stated that "the reasons stated by him (petitioner) for his absence is his ill-health/TB". But in the same breath, the enquiry officer again stated that the petitioner neither introduced any witness nor produced any evidence of outside medical agencies. In this context, it is curious to note that the petitioner categorically stated from the stage of charge sheet explanation that he was suffering from TB disease for the last 5 years and gave detailed particulars of his treatment from the year 2004 onwards. The respondents company also admitted the ill-health/TB disease suffered by the petitioner. In this context it is relevant to mention the medical record produced by the petitioner showing the treatment undergone by him in the SCCL hospitals, special leave sanctioned by the company, medical treatment imparted by Government CD & TB Hospital, Hanamkonda etc., as shown in the following tabular form:—

Sl. No.	Date	Particulars of documents
1	22-04-2005	Medical prescriptions and treatment by Chest Physician Dr. V. Narayana Reddy, Warangal.
2	07-05-2005	-do-
3	02-12-2005	SCCL special leave for suffering from TBH disease from 17-3-2005 to 16-10-2005 for undergoing treatment.
4	28-12-2005	-do- from 17-11-2005 to 16-12-2005
5	18-01-2006	-do- from 17-12-2005 to 16-01-2006
6	24-02-2006	-do- from 17-01-2006 to 16-02-2006
7	10-03-2006	SCCL Area Hospital treatment for TB disease from 17-8-2005 to 10-03-2006
8	28-01-2008	SCCL medical treatment from 11-01-2008 to 28-01-2008
9	09-08-2008	SCCL medical prescription for TB disease
10	09-09-2008	-do-
11	13-09-2008	-do-
12	16-09-2008	-do-
13	17-09-2008	-do- (2) slips for 17-9-2008 and 18-9-2008

Sl.No.	Date	Particulars of documents
14	01-07-2009	-do-
15	13-11-2009	-do- from 13-11-2009 to 12-12-2009
16	22-03-2010	SCCL medical prescriptions
17	13-04-2010	SSCL Medical treatment from 29-3-2010 to 13-4-2010
18	14-02-2011	Osmania General Hospital medical prescriptions
19	18-02-2011	Government General and Chest Hospital medical treatment
20	07-10-2008	SCCL corporate medical board letter showing the petitioner is an old PT (Pulmonary Tuberculosis) patient.
21.	29-04-2010	-do-
22.	13-10-2010	-do-

14. The above documentary evidence placed before this court substantiates the explanations of the petitioner from time to time that he has been suffering from TB disease and other allied ailments undergoing treatment very frequently and availed SCCI sick leave several times for treatment. The explanations of the petitioner before the respondents and his enquiry statements clearly shows that the petitioner was suffering from TB disease, fever, cough and weakness and that he was not able to walk properly due to deterioration of health day by day; and he took treatment in the SCCL hospitals frequently for long spells availing sick leave. The petitioner was also referred to the Corporation Medical Board 3 time. Appearing before the SCCL hospitals may indicate authenticity of suffering from illness or otherwise of the petitioner; but, the basic fact of sickness of the petitioner can be made out even by other evidence.

15. The main charge against the petitioner is that he was habitually absent from duty between 1-1-2009 to 31-12-2009. The absence of the petitioner should have been considered taking into account the previous medical history of the patient which was mentioned in detail in his explanation to the charge sheet marked as Ex. M-2. The enquiry officer concentrated more on extracting a plea of guilt from the petitioner rather than summoning the medical records pertaining to the petitioner from the company's hospital and verifying the authenticity of his explanations with reference to the periods of treatment taken by him in the company's hospitals. It is not in dispute that the petitioner suffered from TB disease and was granted special leave for undergoing TB treatment from August, 2005 to February, 2006. Subsequently also he was consulting company's hospital as well as other hospitals for having

some allied problems. Ex. W-7 & W-8 shows that the petitioner consulted Chest Physician, Hanamkonda for TB and other allied problems. It is also borne out by record that the petitioner was under treatment in SCCL Area Hospital for TB disease from 17-6-2005 to 10-3-2006 as per Ex. W-13.

16. As process of recuperation from illness like Tuberculosis may differ from person to person, it is the consistent case of the petitioner that he did not fully recover from the illness. Even if we take the absence of the petitioner from duty during the year 2009, he was absent for (5) days in January, (6) days in February, (3) days in August and (7) days in November, 2009. During March to July, September and December 2009, the petitioner was mostly absent (summer and cold seasons). SCCL medical treatment and prescriptions under Ex W-22 to Ex-27 shows that the petitioner was given treatment during the years 2008 and 2009 in the company's hospitals. The enquiry officer also referred to absence of the petitioner during the years 2004 to 2008. The medical record filed by the petitioner would go to show that the petitioner had taken treatment in a private hospital during the years 2004-2005. He had taken treatment from the company's hospital during the years 2005 and 2006 and he was as inpatient also during the year 2008. But the enquiry officer never cared to summon records from the company's hospital with regard to absence of the petitioner during the years 2004-2008. It is no doubt true that prior to dismissal from service, petitioner was warned to be careful and not to repeat the absence in future as per Ex. M-9 and M-10 but the ill-health condition of the petitioner was admitted by the respondents. However, petitioner submitted representation dt. 19-12-2009 under Ex. W-17 stating that he was unable to perform duties continuously because of his ill-health.

17. It may be mentioned here that prior to his ill health from 2004, petitioner maintained reasonable attendance viz., (199) musters in 1998, (176) musters in 1999, (190) musters in 2000, (171) musters in 2001, (132) musters in 2002 and (167) musters in 2003 as can be seen from the pay sheets under Ex W-1 to Ex W-6. At page No. 3 of the enquiry report, it is mentioned that the petitioner pleaded about his ill health, his deteriorating health condition and he was unable to work in the underground. But, the Enquiry Officer relied upon the admission of the petitioner that he did not report sick in any of the company's hospital during the year 2009.

18. This is a case where the petitioner was unable to work continuously, but as far as fitness on the basis of medical test is concerned, the medical board was not satisfied about his version of being unfit and instead declared him as fit, as can be seen from Ex. W-21 dt. 13-10-2010. Ex. W-26, dt. 1-7-2009 shows that petitioner attended company's hospital at Srirampur on 1-7-2009 and



he was given treatment. Ex. W-27 also shows that the petitioner suffered from cold fever and head ache and was treated at company's hospital, Srirampur on 13-11-2009, 3-12-2009, 9-12-2009 and 12-12-2009. During the year 2010 also, he was treated by the company's hospital from 23-3-2010 to 29-3-2010 under Ex. W-28 and he was unfit from 29-3-2010 to 13-04-2010 under Ex. W-29. Petitioner was taking treatment in other Government Hospitals after attending the enquiry. As can be seen from Ex. W-28 to W-33, he was treated by the company's hospital, Osmania General Hospital and Govt. General & Chest Hospital, Hyderabad during the years 2010 and 2011.

19. Work in the underground mines is not a job which can be performed with 70% fitness or 80% fitness. Performance of duties in the underground requires a strong body supported by good health. A workman working in the underground mines does not have the facility of going on various types of leave which are open to a white collar job holder in the Government. Even according to the respondents, petitioner worked in the company from the year 1986. Only after the petitioner contacted Tuberculosis, his percentage of attendance came down. Therefore, taking an overall view of the matter it cannot be said that the petitioner was absent for duties without sufficient cause. The medical record produced by the petitioner together with the reference letters of the respondents 3 times to the Corporate Medical Board and SCCL special leave for undergoing TB treatment for 5 long spells clearly show that there is reasonable and sufficient cause for the absence of petitioner; and the charges against him arose only due to his illness and his inability to work continuously. This is not a case where the petitioner/workman had feigned sickness in order to avoid duty by producing false medical certificates. Therefore, the conclusion of the enquiry officer that the petitioner is guilty of misconduct is not fully justified.

20. Regarding quantum of punishment, in a decision reported in DIVISION BENCH JUDGEMENT OF GUJARATH HIGH COURT REPORTED IN 1982 LAB.IC.1031 BETWEEN: R.M., PARMAR VRS., GUJARATH ELECTRICITY BOARD, the following guide lines were laid down in the matter of inflicting punishment of discharge and dismissal:—

1. *In a disciplinary proceeding for an alleged fault of an employee, punishment is imposed not in order to seek retribution or to give vent to feelings of wrath.*
2. *The main purpose of a punishment is to correct the fault of the employee concerned by making him more alert in the future and to hold out warning to the other employees to be careful in the discharge of their duties so that they do not expose themselves to similar punishment. And the approach to be made is the approach parents make towards an erring or misguided child.*
3. *It is not expedient in the interest of the administration to visit every employee against whom a fault is established with the penalty of dismissal and to get rid of him. It would be counter-productive to do so for it would be futile to expect to recruit employees who are so perfect that they would never commit any fault.*
4. *In order not to attract the charge of arbitrariness it has to be ensured that the penalty imposed is commensurate with the magnitude of the fault. Surely one cannot rationally or justly impose the same penalty for giving a slap as one would impose for homicide.*
5. *When different categories of penalties can be imposed in respect of the alleged fault, one of which is dismissal from service, the disciplinary authority perforce is required to consult himself for selecting the most appropriate penalty from out of the range of penalty available that can be imposed, having regard to the nature, content and gravity of the default. Unless the disciplinary authority reaches the conclusion that having regard to the nature, content and magnitude of the fault committed by the employee concerned, it would be absolutely unsafe to retain him in service the maximum penalty of dismissal cannot be imposed. If a lesser penalty can be imposed without seriously jeopardizing the interest of the employees the disciplinary authority cannot impose the maximum penalty of dismissal from service. He is bound to ask the inner voice and rational faculty why a lesser penalty cannot be imposed.*
6. *It cannot be over looked that by and large it is because the maximum penalty is imposed and total ruination stares one in the eyes that the employee concerned is obliged to approach the court and avail the costly time-consuming machinery to challenge in desperation the order passed by the disciplinary authority. If a lesser penalty was imposed, he might not have been obliged to take recourse to costly legal proceedings which result in loss of public time and also result in considerable hardship and misery to the employee concerned.*
7. *When the disciplinary proceedings end in favour of the employee, the employer has often to pay back wages say for about 5 years without being able to take work from the employee concerned. On the other hand, the employee concerned would have had to suffer economic misery and mental torture for all these years. Even the misery of being obliged to remain idle without work would constitute an unbearable burden. And when the curtain drops every one is left with a bitter taste in the mouth. All because the extreme penalty of*



*dismissal or removal is imposed instead of a lighter one.*

8. *Every harsh order of removal from service creates bitterness and arouses feeling of antagonism in the collective mind of the workers and gives raise to a feeling of class conflict. It does more harm than good to the employer as also to the society.*
9. *Taking of a petty article by a worker in a moment of weakness when he yields to a temptation does not call for an extreme penalty of dismissal from service. More particularly, when he does not hold a sensitive post of trust (pilferage by a cashier or by a store keeper from the stores in his charge, for instances, may be viewed with seriousness). A worker brought up and living in an atmosphere of poverty and want when faced with temptation, ought not to, but may yield to it in a moment of weakness. It cannot be approved, but it can certainly be understood particularly in an age when even the rich commit economic offences to get richer and do so by and large with impunity (and even tax evasion or possession of black money is not considered to be dishonorable by and large). A penalty of removal from service is therefore not called for when a poor worker yields to a momentary temptation and commits an offence which often passed under the name of kleptomania when committed by the rich.*

21. In view of the facts and circumstances of the case and the medical record of the petitioner discussed supra, I hold that the extreme penalty of dismissal from service is not at all warranted, keeping in view the health conditions of the petitioner and the fact that he did perform his duties for 18 long years from the years 1986 to 2004; and since the petitioner is out of employment due to illness from the year 2011, I am of the considered opinion that back wages cannot be granted which is sufficient punishment to the petitioner. Therefore, the dismissal order dt. 5-5-2011 passed by the 2nd respondent is set aside and the petitioner shall be reinstated into service as Fitter with continuity of service and attendant benefits, but without any back wages.

22. In the result, the order of dismissal dt. 05-5-2011 marked as Ex. M-8 is set aside and the respondents' company is hereby directed to reinstate the petitioner into service as Fitter with continuity of service and attendant benefits; however, he is not entitled to any back wages. Since the petitioner will be subjected to medical tests to find out whether he is physically fit to join or not, in case the petitioner fails the medical tests, it shall be deemed that he is medically unfit after his reinstatement into service as per this award *i.e.*, by treating the petitioner medically unfit while in service. The award shall come into force within (30) days of its publication. If the respondents fail to implement the award within the above stipulated period, petitioner shall be paid wages for the said delay period.

Typed to my dictation, corrected and pronounced by me in open Court, on this the 6th day of July, 2015.

G. V. KRISHNAIAH, Presiding Officer

### Appendix of Evidence

#### Witnesses Examined

For workman:

-Nil-

For Management:

-Nil-

#### EXHIBITS

For workman:—

Ex.W-1	Dt. 30-11-1998	Pay sheet for the month of November, 1998
Ex.W-2	Dt. —	Pay sheet for the month of October, 1999
Ex.W-3	Dt. —	Pay sheet for the month of December, 2000
Ex.W-4	Dt. —	Pay sheet for the month of December, 2001
Ex.W-5	Dt. —	Pay sheet for the month of December, 2012
Ex.W-6	Dt. —	Pay sheet for the month of December, 2013
Ex.W-7	Dt. 22-04-2005	Medical prescription for treatment
Ex.W-8	Dt. 07-05-2005	Medical prescription
Ex.W-9	Dt. 02-12-2005	SCCL special leave for undergoing the TB treatment from 17-8-2005 to 16-10-2005
Ex.W-10	Dt. 28-12-2005	SCCL special leave for undergoing the TB treatment from 17-11-2005 to 16-12-2005
Ex.W-11	Dt. 18-01-2006	SCCL special leave for undergoing the TB treatment from 17-12-2005 to 16-1-2006
Ex.W-12	Dt. 24-02-2006	SCCL special leave for undergoing the TB treatment from 17-1-2006 to 16-02-2006
Ex.W-13	Dt. 10-03-2006	SCCL special leave for undergoing the TB treatment from 17-8-2005 to 16-03-2006
Ex.W-14	Dt. 01-03-2007	Letter issued to the petitioner by respondent for reducing one increment from 01-03-2007
Ex.W-15	Dt. 21-08-2008	Warning letter issued to petitioner
Ex.W-16	Dt. 07-10-2008	Corporate medical board letter showing the petitioner is case of old PT (1st time)
Ex.W-17	Dt. 19-12-2009	Representation of petitioner for medical unfit by the corporate medical board.

Ex.W-18 Dt. 09-01-2010	Referred letter of R-2 to the corporate medical board for further action
Ex.W-19 Dt. 29-04-2010	Corporate medical board letter showing the petitioner is case of old PT (2nd time)
Ex.W-20 Dt. —	Representation and explanation to the charge sheet
Ex.W-21 Dt. 13-10-2010	Corporate medical board letter showing the petitioner is case of old PT (3rd time)
Ex.W-22 Dt. 28-01-2008	SCCL medical treatment for the petitioner from 17-1-2008 to 28-1-2008, fit certificate
Ex.W-23 Dt. 09-08-2008	SCCL Area Hospital medical prescription OP slip
Ex.W-24 Dt. 09-09-2008/ 16-09-2008	SCCL Area Hospital medical prescriptions three slips
Ex.W-25 Dt. 17-09-2008	SCCL Area Hospital medical prescription from 17-9-2008, 18-9-2008 two OP slips.
Ex.W-26 Dt. 01-07-2009	SCCL Area Hospital medical prescription OP slip
Ex.W-27 Dt. 13-11-2009	SCCL Area Hospital medical OP slip
Ex.W-28 Dt. 22-03-2010	SCCL Area Hospital medical OP slip
Ex.W-29 Dt. 13-04-2010	Fit certificate issued by Area Hospital
Ex.W-30 Dt. 14-02-2011	Osmania General Hospital out patient sheet
Ex.W-31 Dt. 14-02-2011	Complete blood picture of petitioner
Ex.W-32 Dt. 18-02-2011	Govt. General & Hospital out patient ticket medical prescription
Ex.W-33 Dt. 05-05-2011	Dismissal order
Ex.W-34 Dt. 01-11-2011	Demand letter
Ex.W-35 Dt. 08-11-2011	Postal Acks. (2) Nos.,

**For Management:—**

Ex.W-1 Dt. 20-02-2010	Charge sheet
Ex.M-2 Dt. 06-03-2010	Reply to charge sheet
Ex.M-3 Dt. 09-03-2010	Enquiry notice
Ex.M-4 Dt. 25-03-2010	Enquiry proceedings
Ex.M-5 Dt. 11-06-2010	Enquiry report
Ex.M-6 Dt. 12-07-2010	Show cause notice

Ex.M-7 Dt. 12-07-2010	Undelivered postal returned cover with Ack.,
Ex.M-8 Dt. 05-05-2011	Dismissal letter
Ex.M-9 Dt. 21-08-2008	Copy of letter issued to petitioner after conclusion of enquiry into charge sheet dt. 14-2-2008 taking lenient view in of his ill health.
Ex.M-10 Dt. 07-01-2010	Copy of letter issued to petitioner after conclusion of enquiry into charge sheet dt. 2-3-2009 taking lenient view.

नई दिल्ली, 20 अगस्त, 2015

कांआ 1678.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस० सी० सी० एल० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध 1 में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय गोदावरीखनी के पंचाट (संदर्भ संख्या 25/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/08/2015 को प्राप्त हुआ था

[सं० एल-22013/1/2015—आई आर (सी-2)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 20th August, 2015

**S.O. 1678.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Indus. Tribunal-cum-Labour Court, Godavarikhani (IT/ID/25/2013) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workmen, which was received by the Central Government on 20.08.2015.

[No. L-22013/1/2015-IR(C-II)]

RAJENDER SINGH, Section Officer

**ANNEXURE**

**BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-CUM-VI-ADDL. DISTRICT & SESSIONS COURT, GODAVARIKHANI**

Present:— SRI G.V. KRISHNAIAH,

Chairman-cum-Presiding Officer.

**Industrial Dispute No. 25 of 2013**

Monday, the 13th day of July, 2015

Between:—

W.ASHOK KUMAR, S/o. Gangaram aged about 47 years, Ex. Electrician Category-IV, Goleti 1-Incline, H.No. 1-2-166, Near Government Degree College, Shanthi Nagar, Adilabad Town, Dist. Adilabad.

...Petitioner.

**AND**

1. The General Manager,  
Singareni Collieries Company Ltd.,  
Bellampalli Area, PO. Bellampalli, Dist. Adilabad.
2. The Chairman & Managing Director,  
Singareni Collieries Co. Ltd., PO. Kothagudem,  
Dist. Khammam.

...Respondents.

This case coming before me for final hearing in the presence of Sri. J. Rajaiah, Advocate for the petitioner and of Sri D. Krishna Murthy, Advocate for the respondents; and having been heard and having stood over for consideration till this day, the Tribunal delivered the following:—

**AWARD**

1. This petition is filed U/Sec. 2(A)(2) of I.D. Act challenging the dismissal of the petitioner passed by the 1st respondent praying for his reinstatement into service with continuity of service, all attendant benefits and full back wages.

2. Petitioner was dismissed from service by the 1st respondent *vide* office order dt. 09/11-08-1995 with the following charge.

**CHARGE**

"For your continuous absence from 11-09-1993 to 6-6-1995 which is misconduct under company's standing order No. 25(31)"

3. Petitioner challenges his dismissal on the following grounds:—

- (a) The petitioner was appointed as an Electrician by the respondents' company in the year 1987 duly completing the Apprenticeship Training from 22-3-1987 to 21-3-1988. He was promoted as Category-II Electrician and later he was again promoted as Category-IV Electrician. Ever-since the date of his appointment, the petitioner was discharging his duties to the utmost satisfaction of the respondents' company authorities.
- (b) Due to severe Asthama and ill-health, the petitioner was compelled to undergo treatment and on the advice of doctors, he could not attend to duties. He informed the same to the company authorities and made applications to that effect. But the first respondent without considering the true facts and ill-health condition of the petitioner, issued charge sheet.
- (c) The petitioner submitted his explanation and participated in the enquiry, but his detailed statement was not recorded. The enquiry officer failed to consider the ill-health condition of the petitioner and his finding are quite biased and perverse.

- (d) The 1st respondent without considering the genuine ill-health of the petitioner and his representation on the enquiry officers findings, straight away dismissed him from service illegally without issuing any prior show cause.
- (e) Punishment of dismissal from service is extremely harsh, highly excessive and shockingly disproportionate. Hence, the petitioner prays to allow the petition.

4. Respondent filed counter with the following allegations:—

The present dispute is barred by limitation in accordance with Section 2-A of the I.D., (Amendment) Act, 2010 (*w.e.f.* 15-09-2010). The petitioner was dismissed in the year 1995. The petitioner having kept quiet for all these years, now after lapse of about 18 years is raising this dispute. The petitioner was appointed in the year 1987 and worked as Electrician at Goleti-1 incline, Bellampalli Area of the respondent's company. The petitioner was a chronic absentee remained absent from his duties from 11-09-1993 to 6-6-1995 *i.e.*, continuously for a period of 21 months without any intimation to the respondents' company. The petitioner attended the enquiry proceedings on 20-5-1995. The enquiry officer conducted the enquiry duly following the principles of natural justice giving opportunity to the petitioner to defend his case. The petitioner was issued show cause notice and he submitted his explanation to the show cause notice.

5. The respondents' company after considering the past record of the petitioner and on findings that there were no extenuating circumstances for taking a lenient view was constrained to dismiss the petitioner from service. The respondents company conducted the enquiry proceedings duly in accordance with the principles of natural justice and law giving full opportunity to the petitioner. Therefore, the respondents pray to dismiss the petition without granting any relief to the petitioner.

6. During the course of hearing, Ex.W-1 to Ex.W-10 are marked on behalf of the petitioner and no documents are marked on behalf of the respondents.

7. Heard both sides. Perused the material papers on record.

8. On consideration of respective contentions of the parties, the following points require to be determined:—

"Whether the punishment of dismissal of the petitioner from service is justified and proportionate?"

**9. POINT:—**

From the pleadings of both sides, admittedly the petitioner was appointed in the year 1987 and worked as Electrician. He remained absent to his duties from

11-9-1993 to 6-6-1995 *i.e.*, continuously for a period of 21 months without any intimation to the respondents company. Charge sheet dt. 13/16-6-1995 was issued to the "petitioner and he attended the enquiry on 20-6-1995. He was issued show cause notice dt. 27/29-7-1995 to which he submitted reply dt. 7-8-1995. Later petitioner was dismissed from service through office order No. BPA/129/2071, dt. 9/11-8-1995 *w.e.f.*, 21-8-1995. Admittedly the petitioner continuously remained absent to his duties for 21 months *i.e.*, from 11-9-1993 to 6-6-1995 and he was dismissed from service by order dt. 9/11-8-1995. The medical certificate dt. 7-6-2013 under Ex.W-7 showing treatment for 17 years stating that the petitioner was suffering with Br. Asthma cannot be believed. If really the petitioner was suffering from Asthma or any other health problems, he would have produced the medical certificate for the relevant charge sheeted period to the respondents company at the time of his explanation to the charge sheet or during the enquiry. But, without doing so, the medical certificate under Ex. W-7 and the medical prescription under Ex.W-8 dt. 1-8-2012 is of no help to the petitioner's case. Admittedly the petitioner kept quiet for 18 long years without raising any Industrial Dispute since 1993 and filed the present petition in August, 2013. The long delay of 18 years is not supported by any cogent evidence and the attitude of the petitioner in keeping quiet for all these 18 years shows that he has no real grievance against his dismissal and this case may have to be treated as a state claim. Further, there are no merits forthcoming for the continuous absence of the petitioner for a period of 21 months and his keepin quiet 18 long years without assailing the dismissal order. Therefore, I am constrained to hold that the dismissal order dt. 9/11-8-1995 passed by the respondents' company is justified and there are no mitigating circumstances to interfere with the said punishment. Hence, the I.D., is liable to be dismissed and is accordingly dismissed.

10. In the result, the petition is dismissed, but without any costs.

Typed to my dictation, corrected and pronounced by me in open Court, on this the 13th day of July, 2015.

G.V. KRISHNAIAH, Chairman-Cum-Presiding Officer.

ID.No.25/2013

Appendix of Evidence

Witnesses Examined

For workman:

-Nil-

For Management:

-Nil-

## EXHIBITS

For workman:—

Ex.W-1	Dt. 9/11-8-1995	Copy of dismissal order
Ex.W-2	Dt. 16-05-1988	Apprenticeship certificate
Ex.W-3	Dt. 11-08-1998	Provisional certificate
Ex.W-4	Dt. 18-08-1993	Application of the petitioner x.copy
Ex.W-5	Dt. 18-08-1995	Mercy representation of petitioner
Ex.W-6	Dt. —	Representation of petitioner for his employment, x.copy
Ex.W-7	Dt. 07-06-2013	Medical certificate issued by Dr. P. Ramesh, M.D., (Pulmonary Medicine)
Ex.W-8	Dt. 01-08-2012	Medical prescription of petitioner issued by Dr. Ramesh Pawar
Ex.W-9	Dt. 16-07-2003	Demand notice
Ex.W-10	Dt. 16-07-2013	Postal receipt

For Management:

-Nil-

नई दिल्ली, 20 अगस्त, 2015

का०आ० 1679.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस् सी० सी० एल्० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध 1 में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय गोदावरीखनी के प्रचाट (संदर्भ संख्या 78/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/08/2015 को प्राप्त हुआ था।

[सं० एल्-22013/1/2015-आईआर (सी-2)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 20th August, 2015

**S.O. 1679.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Indus.Tribunal-cum-Labour Court, Godavarikhani (IT/ID/78/2010) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workmen, which was received by the Central Goernment on 20.08.2015.

[No. L-22013/1/2015-IR(C-II)]

RAJENDER SINGH, Section Officer



**ANNEXURE****BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT- CUM-VI ADDL. DISTRICT &  
SESSIONS COURT, GODAVARIKHANI**

Present:- SRI G.V. Krishnaiah,

Chairman-cum-Presiding Officer.

**Industrial Dispute No. 78 of 2010**

Friday, the 10th day of July, 2015

Between:—

Kavoori Srinivasa Reddy, E.C.No. 2911972,  
Ex. Badli Filler, S/o. late Sri Poli Reddy, Age 32 years,  
C/o. Sri Amarendra Rao, Advocate, Ganganagar,  
PO: Godavarikhani-505 209, Dist. Karimnagar. --Petitioner.

**AND**

1. The Superintendent of Mines,  
Singareni Collieries Company Ltd.,  
Ravindra Khani No.8 Incline, Dist. Adilabad.
2. The Chief General Manager,  
Singareni Collieries Co. Ltd., Srirampur Area, PO  
Srirampur, Dist. Adilabad.
3. The Chairman & Managing Director,  
Singareni Collieries Co. Ltd., PO. Kothagudem,  
Dist. Khammam.

--Respondents.

This case coming before me for final bearing in the presence of Sri B. Amarendra Rao, Advocate for the petitioner and of Sri D. Krishna Murthy, Advocate for the respondents; and having been heard and having stood over for consideration till this day, the Tribunal delivered the following:—

**AWARD**

1. This petition is filed U/Sec. 2(A)(2) of I.D. Act challenging the dismissal of the petitioner passed by the 2nd respondent praying for his reinstatement into service with continuity of service, all attendant benefits and full back wages.

2. Petitioner was dismissed from service by the 2nd respondent *vide* office order dt. 25-03-2014 with the following charge.

**CHARGE:—**

"25.31: Absence from duty without sanctioned leave or sufficient cause or overstaying beyond sanctioned leave during the period from 01-01-2007 to 31-01-2008".

3. Petitioner challenges his dismissal on the following grounds:—

- (a) The petitioner was appointed as Badli Filler by the respondents' company in the year 2002 under the

dependent employment scheme in place of his father Late Sri Poli Reddy who died while in service. Ever since the date of his appointment, the petitioner was discharging his duties to the utmost satisfaction of all his superiors without any kind of adverse remarks.

- (b) During the course of his employment, the petitioner sustained injuries to his head and left eye. He underwent medical treatment frequently for viral hepatitis and defective vision in the year 2005. As such the petitioner could not attend to his duties and availed sick leaves. The company's Area Hospital examined the petitioner and found that he was suffering with "Defective vision in left eye for the last 1½ years following trauma to LE. He had a H/o surgery in left eye for retinal detachment after a month of trauma and that he was a known case of Hepatitis-B virus and to apply for Corporate Medical Board *vide* letter dt. 27-10-2005".
- (c) The petitioner participated in the enquiry, deposed the above facts and also has submitted detailed representation to the 1st and 2nd respondents narrating the fact of his serious ill-health during the course of his employment in the company and requested the respondents' company to provide surface job.
- (d) The respondents did not conduct fair and proper enquiry and the petitioner was not given fair opportunity to defend himself. There is reasonable and sufficient cause for the alleged absence of the petitioner during the years 2008-2009. The respondents have adopted unfair labour practice against the petitioner.
- (e) Punishment of dismissal from service is extremely harsh, highly excessive and shockingly disproportionate. Hence, the petitioner prays to allow the petition.

4. In response to this challenge, respondents filed counter justifying the dismissal of the petitioner. The respondents company being mining industry is a Central Government subject and the petitioner ought to have approached the CGIT, Hyderabad. This petition is not maintainable before this Court and is liable to be dismissed.

The petitioner was appointed in the respondents company as Badli Filler on 21-12-2002 on compassionate grounds. The petitioner did not sustain any injuries to head or left eye during the course of employment as alleged by him. The petitioner is a known case of Hepatitis-B and Defective eye vision. The petitioner was suffering from the above said ailments, the petitioner's case was forwarded to Chief of Medical Services, Kothagudem for fitness to work underground. The petitioner continued to be absent for the year 2006, 2007 and 2008. Though the petitioner was warned for his unauthorized absence and advised to

improve his attendance, the petitioner failed to improve attendance and continued to be absent. The following attendance particulars of the petitioner indicate the fact that the petitioner was not regular to his duties and in no year he had put in 190 musters during the period from 2002 to 2008.

Sl. No.	Year	No. of musters
1.	2002	06
2.	2003	131
3.	2004	101
4.	2005	08
5.	2006	08
6.	2007	Nil
7.	2008	Nil
8.	2009	Nil
9.	2010	Nil

During the period from January, 2008 to January, 2010, the petitioner had put in- Nil-musters. As the above act amounted to misconduct under Standing Orders Clause No. 25.31 of the company, the petitioner was charge sheeted. After considering the documentary evidence and other evidence on record, the enquiry officer submitted his unbiased report holding that the petitioner is guilty of misconduct under company standing orders.

5. The respondents' company having conducted enquiry and having counselled the petitioner taking a lenient view advised him to improve his attendance. But the petitioner failed to improve his attendance and continued to be absent from service. The respondent company after considering the past record of the petitioner and on finding that there were no extenuating circumstances for taking a lenient view was constrained to dismiss the petitioner from service. The respondent company conducted the enquiry proceedings duly in accordance with the principles of natural justice and law giving full opportunity to the petitioner. Therefore, the respondents pray to dismiss the petition without granting any relief to the petitioner.

6. During the course of hearing, Ex.W-1 to Ex.W-10 and Ex.M-1 to Ex.M-10 are marked.

7. Counsel for the petitioner filed Memo U/Sec. 11-A of I.D., Act stating that he is not challenging the validity of domestic enquiry conducted by the respondents and prayed this Tribunal to decide the quantum of relief to which the petitioner is entitled.

8. Heard both sides. Perused the material papers on record.

9. Respondents filed written arguments.

10. On consideration of respective contentions of the parties, the following points require to be determined:—

1. "Whether this Tribunal has got jurisdiction?"
2. "Whether the punishment of dismissal of the petitioner is justified and proportionate?"

#### 11. POINT No.:1

As per the judgment of the Hon'ble High Court reported in 1997 (III) LLJ (Supp.) 11 between U. Chinnappa And Cotton Corporation of India, this Court has got jurisdiction to entertain the dispute raised by the petitioner. Hence, the point is accordingly answered in favour of the petitioner.

#### 12. POINT No:2

Medical prescription and treatment given to the petitioner by the SCCL Area Hospital, Ramakrishnapur dt. 9-8-2005 is marked as Ex.W-1. Another medical prescription dt. 12-8-2005 showing the treatment given to the petitioner in the same SCCL Area Hospital is marked as Ex. W-2. Letter dt. 26/30-8-2005 of the Chief Medical Officer, SCCL Area Hospital, Ramakrishnapur/SRP addressed to the Chief of Medical Services, Kothagudem is marked as Ex. W-3 which shows that the petitioner is a known case of "Hepatitis-B", that he was suffering from defective eye vision and that he was referred the Main Hospital, Kothagudem for advice regarding his fitness to work as Badli Filler in the underground. Letter dt. 27-10-2005 of the Addl. CMO, on behalf of Chief Medical Services, Kothagudem to the Addl. CMO, Area Hospital, RKP (SRR Area) is marked as Ex. W-5 which shows that the petitioner is a case of "Defective vision in left eye for the last one and half years following Trauma to LE" and that he is a known case of Hepatitis-B also. It is further clearly stated that petitioner was examined and advised to apply for Corporate Medical Board. Previous charge sheet dt. 1-2-2008 issued to the petitioner is marked as Ex. W-5 and enquiry notice thereof is marked as Ex. W-6, where under petitioner was directed to show cause as to why disciplinary action should not be taken against him for his absence to duty from 1-1-2007 to 31-1-2008. Order dt. 3-5-2008 issued by the 2nd respondent is marked as Ex.W-7 which shows that petitioner's representation dt. 26-2-2008 was examined and that a lenient view was taken by warning the petitioner. The petitioner was issued another charge sheet dt. 18-2-2009 marked as Ex. M-1 for his absence from duty from 1-2-2008 to 31-1-2009. Enquiry proceedings are marked as Ex. M-5 and the dismissal order dt. 25-3-2010 is marked as Ex. M-10.

13. That even according to the respondents, it can be seen from Para No.6 of the counter that:—

"Petitioner is a known case of Hepatitis-B and defective eye vision, that as the petitioner was suffering from the above said ailments, his case was forwarded to the Chief of Medical Services, Kothagudem for fitness to work

underground, *vide* letter dt. 30-8-2005 The petitioner reported to the Main Hospital, Kothagudem on 26-10-2005 and was examined and advised to apply to Corporate Medical Board for fitness, *vide* letter dt. 27-10-2005. The petitioner having applied to the Corporate Medical Board should have waited for reply of the Board and continue to his duty or avail treatment by reporting sick in the Company Area Hospital."

The grievance of the Petitioner is that as the Addl. CMO, Kothagudem examined the petitioner and found that petitioner is a case of defective vision in left eye and a known case of Hepatitis-B virus and to apply for Corporate Medical Board *vide* letter dt. 27-10-2005, the 1st respondent sent the petitioner's record to the Area Hospital, Ramakrishnapur for referring him to the Corporate Medical Board and not allowed him to do Badli Filler underground duty, due to the above ailment. Petitioner was undergoing medical treatment for his ailment. The respondents neither provided him surface job nor made him medically unfit for underground duty. Petitioner was taking treatment and waited for communication from the Corporate Medical Board, so that he can appear before the Medical Board. But instead the respondents have chosen to issue charge sheet to him alleging absence from duty from 1-1-2007 to 31-8-2008. However after enquiry petitioner was directed to improve this attendance. Again petitioner was not allowed to work underground because of defective vision and virus Hepatitis-B. But another enquiry was held for his absence to duty without sufficient cause for the period from 1-2-2008 to 31-1-2009. Domestic enquiry was ordered and later petitioner was dismissed from service *w.e.f.*, 27-3-2010. The respondents without applying to the Corporate Medical Board as per the medical opinion of Main Hospital, Kothagudem, dismissed him from service unjustly by order dt. 25-3-2010 to deprive him surface job and his medical unfit benefits.

14. The respondents have brought to the notice of this court the guidelines with regard to considering the medical fitness of the workers by constituting "Corporate Medical Board", *vide* circular dt. 29-5-2000. The guidelines nowhere prohibit the management/respondents company to refer an employee to the Medical Superintendent of the Area Hospital and in turn to the Corporate Medical Board. According to the letter of the Main Hospital, Kothagudem under Ex.W-4 communication was sent by the Chief of Medical Services, Kothagudem Hospital to the Addl. CMO, Area Hospital RKP (SRP Area) that petitioner was suffering from defective vision and he is a known case of virus Hepatitis-B also and advised to apply for Corporate Medical Board. These aspects were not at all considered in the domestic enquiry with regard to the absence of the petitioner to duties. It is not the case of the respondents that the petitioner is fit to work in the underground mines and in spite of fitness; he failed to attend to duties. Petitioner is admittedly suffering from defective vision and

is a known case of Hepatitis-B, because of which he was not allowed in the underground. No action was taken by the respondents company to allot any surface duties to the petitioner or declare him unfit for any sort of duty. Therefore it is not a case where the petitioner was intentionally abstaining from duties. Considering the medical record of the petitioner, it is appropriate to take a lenient view. If the petitioner had lacked initiative in pursuing his case with the Corporate Medical Board, the respondents were also equally at fault for not processing petitioner's case to a logical conclusion with regard to his medical fitness.

15. In a decision reported in DIVISION BENCH JUDGMENT OF GUJARATH HIGH COURT REPORTED IN 1982 LAB.IC 1031 BETWEEN: R.M., PARMAR VRS., GUJARATH ELECTRICITY BOARD, the following guide lines were laid down in the matter of inflicting punishment of discharge and dismissal:—

1. In a disciplinary proceeding for an alleged fault of an employee, punishment is imposed not in order to seek retribution or to give vent to feelings of wrath.

2. The main purpose of a punishment is to correct the fault of the employee concerned by making him more alert in the future and to hold out warning to the other employees to be careful in the discharge of their duties so that they do not expose themselves to similar punishment. And the approach to be made is the approach parents make towards an erring or misguided child.

3. It is not expedient in the interest of the administration to visit every employee against whom a fault is established with the penalty of dismissal and to get rid of him. It would be counter-productive to do so for it would be futile to expect to recruit employees who are so perfect that they would never commit any fault.

4. In order not to attract the charge of arbitrariness it has to be ensured that the penalty imposed is commensurate with the magnitude of the fault. Surely one cannot rationally or justly impose the same penalty for giving a slap as one would impose for homicide.

5. When different categories of penalties can be imposed in respect of the alleged fault, one of which is dismissal from service, the disciplinary authority perforce is required to consult himself for selecting the most appropriate penalty from out of the range of penalty available that can be imposed, having regard to the nature, content and gravity of the default. Unless the disciplinary authority reaches the conclusion that having regard to the nature, content and magnitude of the fault committed by the employee concerned, it would be absolutely unsafe to retain him in service, the maximum penalty of dismissal cannot be imposed. If a lesser penalty can be imposed without seriously jeopardizing the interest of the employees the disciplinary authority cannot impose the maximum

penalty of dismissal from service. He is bound to ask the inner voice and rational faculty why a lesser penalty cannot be imposed.

6. It cannot be over looked that by and large it is because the maximum penalty is imposed and total ruination stares one in the eyes that the employee concerned is obliged to approach the court and avail the costly time-consuming machinery to challenge in desperation the order passed by the disciplinary authority. If a lesser penalty was imposed, he might not have been obliged to take recourse to costly legal proceedings which result in loss of public time and also result in considerable hardship and misery to the employee concerned.

7. When the disciplinary proceedings end in favour of the employee, the employer has often to pay back wages say for about 5 years without being able to take work from the employee concerned. On the other hand, the employee concerned would have had to suffer economic misery and mental torture for all these years. Even the misery of being obliged to remain idle without work would constitute an unendurable burden. And when the curtain drops every one is left with a bitter taste in the mouth. All because the extreme penalty of dismissal or removal is imposed instead of a lighter one.

8. Every harsh order of removal from service creates bitterness and arouses feeling of antagonism in the collective mind of the workers and gives rise to a feeling of class conflict. It does more harm than good to the employer as also to the society.

9. Taking of a petty article by a worker in a moment of weakness when he yields to a temptation does not call for an extreme penalty of dismissal from service. More particularly, when he does not hold a sensitive post of trust (pilferage by a cashier or by a store keeper from the stores in his charge, for instances, may be viewed with seriousness). A worker brought up and living in an atmosphere of poverty and want when faced with temptation, ought not to, but may yield to it in a moment of weakness. It cannot be approved, but it can certainly be understood particularly in an age when even the rich commit economic offences to get richer and do so by and large with impunity (and even tax evasion or possession of black money is not considered to be dishonorable by and large). A penalty of removal from service is therefore not called for when a poor worker yields to a momentary temptation and commits an offence which often passed under the name of kleptomania when committed by the rich.

16. In view of the facts and circumstances of the case, medical record and keeping in view the admitted defective vision and virus Hepatitis-B being suffered by the petitioner discussed supra, I hold that the dismissal order dt. 25-3-2010 passed by the 2nd respondent is liable to be set aside,

to meet the ends of justice. However, the petitioner is not entitled to any back wages.

17. In the result, the order of dismissal dt. 25-03-2010 marked as Ex.M-10 is set aside and the respondents' company is hereby directed to send the petitioner to Corporate Medical Board, Kothagudem for fitness test, within (30) days of publication of this award. For this purpose, petitioner shall furnish his postal address to the 2nd respondent for further communications as per the award and he shall appear before the 2nd respondent as and when required. In case the petitioner is found to be unfit for underground job as Badli Filler, the respondents shall provide surface job to him. If the petitioner is unfit to be reinstated for any type of job, it shall be deemed that the petitioner is medically unfit while in service, since the dismissal order is set aside by this court. Petitioner is not entitled to any back wages.

Typed to my dictation, corrected and pronounced by me in open Court, on this the 10th day of July, 2015.

G. V. KRISHNAIAH, Chairman-Cum- Presiding Officer

Appendix of Evidence

Witnesses Examined

For Workman:— For Management:—

-Nil-

-Nil-

### EXHIBITS

For workman:—

Ex. W-1 Dt. 09-08-2005 SCCL Area Hospital OP Slip No. 15757, x. Copy

Ex. W-2 Dt. 12-08-2005 SCCL Area Hospital OP Slip No. 13764

Ex. W-3 Dt. 26/30-08-2005 Letter to Chief of Medical Services, Kothagudem by Addl. Chief Medical Officer, Area Hospital, Ramakrishnapur, x. copy

Ex. W-4 Dt. 27-10-2005 Letter to Addl. CMO, Area Hospital, Ramakrishnapur, SRP, Area by Addl. CMO, advising to apply for corporate Medical Board.

Ex. W-5 Dt. 01-02-2008 Charge sheet

Ex. W-6 Dt. 08-02-2008 Enquiry notice

Ex. W-7 Dt. 3/5-04-2008 Letter issued to the petitioner by the General Manager, Srirampur Area advising the petitioner to improve attendance



Ex..W-8 Dt. 25-03-2010	Dismissal order, x. copy
Ex. W-9 Dt. 10-05-2010	Demand letter
Ex. W-10 Dt. 04-03-2010	Postal Ack., card of petitioner
For Management:—	
Ex. M-1 Dt. 18-02-2009	Charge sheet
Ex. M-2 Dt. 03-08-2009	Enquiry notice
Ex. M-3 Dt. 24-08-2009	Undelivered postal returned cover with Ack.
Ex. M-4 Dt. 11-09-2009	Enquiry notice was published in Sakshi telugu news paper
Ex. M-5 Dt. 23-04-2009	Enquiry proceedings
Ex. M-6 Dt. 30-09-2009	Enquiry report
Ex. M-7 Dt. 30-10-2009	Show cause notice
Ex. M-8 Dt. 30-10-2009	Undelivered postal returned cover with Ack.
Ex. M-9 Dt. 20-01-2010	Show cause notice was published in Andhra Jyothi Telugu daily news paper
Ex. M-10 Dt. 25-03-2010	Dismissal order.

नई दिल्ली, 20 अगस्त, 2015

**का०आ० 1680.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 01/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 20/08/2015 को प्राप्त हुआ था।

[सं० एल-22012/258/1999-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 20th August, 2015

**S.O. 1680.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 01/2000) of the Central Government Industrial Tribunal-Cum-Labour Court, ASANSOL as shown in the Annexure in the Industrial Dispute between the management of the Khas Kajora Colliery of M/s Eastern Coalfields Limited, and their workman, received by the Central Government on 20/08/2015.

[No. L-22012/258/1999-IR(CM-II)]

RAJENDER SINGH, Section Officer

## ANNEXURE

### BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT: Sri Pramod Kumar Mishra,  
Presiding Officer

#### REFERENCE NO. 01 OF 2000

PARTIES: The Management of Khas Kajora  
Colliery of M/s. ECL

Vs.

Shri Khiru Bhuia

#### REPRESENTATIVES:

For the management: Sri P. K. Das, Ld. Adv. (ECL)

for the union (Workman): Shri Rakesh Kumar, President  
(KMC)

INDUSTRY: COAL STATE: WEST BENGAL

Dated: 07.08.2015

#### AWARD

In exercise of power conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour *vide* its letter No. L-22012/258/1999-IR(CM-II) dated 21.12. 1999 has been pleased to refer the following dispute for adjudication by this Tribunal.

#### SCHEDULE

"Whether the action of the management of Khas Kajora Colliery of Kajora Area of M/s Eastern Coalfields Limited, in dismissing Shri Khiru Bhuia, Driller from services is legal and justified, if not, what relief the workman is entitled to?"

Having received the Order No. L-22012/258/1999-IR(CM-II) dated 21.12. 1999 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 01 of 2000 was registered on 05.01.2000/10.10.2001 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out Sri Rakesh Kumar, President of the union (Koyla Mazdoor Congress) appears on behalf of the workman but none appears on behalf of the management (Khas Kajora Colliery, ECL).

Shri R. Kumar submits that the workman is not interested to proceed with the case further and he has got no instruction from the workman. He has also written it on the order sheet. Since the workman is now not at all interested to proceed with the case further and the case is also very old-of the year 2015. The case is closed and accordingly a "No Dispute Award" may be passed.

### ORDER

Let an 'Award' be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 20 अगस्त, 2015

**का.आ. 1681.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 56/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 20/08/2015 को प्राप्त हुआ था।

[सं. एल-22012/542/1999-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 20th August, 2015

**S.O. 1681.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 56/2000) of the Central Government Industrial Tribunal-Cum-Labour Court, ASANSOL as shown in the Annexure in the Industrial Dispute between the management of the Pure Searsole Colliery of M/s Eastern Coalfields Limited, and their workmen, received by the Central Government on 20/08/2015.

[No. L-22012/542/1999-IR(CM-II)]

RAJENDER SINGH, Section Officer

### ANNEXURE

#### BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT: Sri Promod Kumar Mishra,  
Presiding Officer

#### REFERENCE NO. 56 OF 2000

PARTIES: The Management of Pure Searsole Colliery of M/s. ECL

Vs.

Shri Ishaque Mia

### REPRESENTATIVES:

For the management: Sri P.K. Goswami, Ld. Adv. (ECL)

For the union (Workman): Shri Pralay Dutta, Ld. Adv. of the workman

INDUSTRY: COAL

STATE: WEST BENGAL

Dated: 04.08.2015

### AWARD

In exercise of power conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour *vide* its letter No. L-22012/542/1999-IR(CM-II) dated 13.07.2000 has been pleased to refer the following dispute for adjudication by this Tribunal.

### THE SCHEDULE

"Whether the action of the management of Pure Searsol Colliery under ECL in denying/refusing re-instatement of Sh. Ishaque Mia as per the judgement of Junior Division Second Court, Asansol dated 26.02.1998 is legal valid and justified? If not what relief the workman is entitled?"

Having received the Order No. L-22012/542/1999-IR (CM-II) dated 13.07.2000 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 56 of 2000 was registered on 01.08.2000 and accordingly an order to that effect was passed to issue notice through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

The case record is put up today as it was tagged with L.C. Application no. 02 of 2009 which was also filled by the same workman, *i.e.* Shri Ishaque Mia.

Shri P. K. Goswami, learned advocate for the opposite party and Srhi Pralay Dutta, Learned Advocate for the workman are present. Both of them pressed for passing a "No Dispute Award" in this case as the workman has already died. The case was for reinstatement of the workman. Since the workman is dead and his lawyer was written on the order sheet for passing a 'No' Dispute Award' I think it jsut and proper to close this case. Hence the case is closed and accordingly a 'No Dispute Award' may be passed.

**ORDER**

Let an 'Award' be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 20 अगस्त, 2015

**का.आ. 1682.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीआई के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 5/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 20/08/2015 को प्राप्त हुआ था।

[सं एल-22012/30/2002-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 20th August, 2015

**S.O. 1682.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 5/2003) of the Central Government Industrial Tribunal-Cum-Labour Court, Lucknow as shown in the Annexure, in the Industrial Dispute between the management of the Food Corporation of India, and their workman, received by the Central Government on 20/08/2015.

[No. L-22012/30/2002-IR(CM-II)]  
RAJENDER SINGH, Section Officer

**ANNEXURE****CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, LUCKNOW****PRESENT:**

RAKESH KUMAR, PRESIDING OFFICER

**I.D. No. 05/2003**

**L-22012/30/2002-IR(CM-II) dated 08.10.2002**

**BETWEEN**

The State Secretary  
Bharatiya Khadya Nigam Karamchari Sangh  
TC/3V, Vibhuti Khand, Gomti Nagar  
Lucknow

**AND**

The Regional Manager  
Food Corporation of India  
TC/3V, Vibhuti Khand, Gomti Nagar  
Lucknow

**AWARD**

1. By order No. L-22012/30/2002-IR(CM-II) dated 08.10.2002, the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between The State Secretary, Bharatiya Khadya Nigam Karamchari Sangh, TC/3V, Vibhuti Khand, Gomti Nagar, Lucknow and The Regional Manager (UP) Food Corporation of India, TC/3V Vibhuti Khand Gomti Nagar, Lucknow for adjudication.

The reference under adjudication is:

"Whether the action of the management of food corporation of india in passing reversion orders against 68 workmen *vide* office order dated 30.10.2000 is legal and justified? If not, to what relief they are entitled to?"

In brief, facts of the case as per the claim statement are as follows;

The Karmchari Sangh has stated that opposite party No. 1 has promoted 50 AG-II (Min.) to Asstt. Grade-I(Min.) against penal year 1991 *vide* office order dated 21.12.1991, various cadres of category III employees in FCI are there such as Depot. Cadre, Technical cadre, ministry cadre, accounts cadre and engineering cadre, seniority of each cadre of employee is maintained at Zonal level separately.

The opposite party No. 1 has promoted 44 AG.II (M) to the post of Ag.1(M) against penal year from 1990 to 1992 *vide* office order dated 22.12.1982. The opposite party No. 1 has again issued promotion orders for 19 employees promoting them from the post of Ag.II (M) to Ag.II (M) *vide* office order dated 02.12.1993. All the employees had joined and started functioning on the promoted post as soon as they got the promotion orders. The pay of the promoted employees was also fixed by FCI on their promotions. After working for 7-8 years as Ag.I (M) the Dy. Zonal Manager (N) has issued a cyclostyle show cause notice dated 12.02.1998 to the workmen. Some of them received it and some have not.

The applicant has emphasized that the show cause notice issued by the opposite party is illegal, arbitrary and against the law, as major penalty under regulation 54 can not be awarded without going through the procedure prescribed under regulation 58. Directions of Hon'ble High Courts and Hon'ble Supreme Court have not been followed by the opposite party, moreover the workmen were not parties to the case referred in the show cause notice as such those orders were not binding upon them. The Sangh has stated that workmen joined the FCI in 1972 as Ag.III (M) as fresh appointee and the seniority is fixed according to the merit in the selection as provided in regulation 16(1), seniority list cannot be revised arbitrarily, and it cannot be changed after 26 years or so, while two promotions have already been granted in between.

The Sangh has further stated that it was duty of the FCI to provide copies of all the relevant orders of Hon'ble various High Courts and Supreme Court to the workmen so that they could give effective replies. But the copies were not provided despite demands. It was the duty not to pass any adverse order before providing copies. The Dy. Zonal Manager is not the appointing authority of the workmen, they were promoted by Zonal Manager as such the show cause notice is without jurisdiction. The applicant has come to know from the reliable sources that not court has ever ordered to change the seniority of entire cadre in whole of the North Zone of FCI since 1972 and revert the workmen after they worked for 7-8 years in promoted capacity. The change of seniority and consequential show cause notice etc. are totally arbitrary, illegal and mala fide act.

The Sangh has stressed further that the workmen promoted and worked as Ag.II (M) from 1991-93 were not only reversed as Ag.I (M), but pay was also reduced and salary already paid from 1991 to 2000 was to be recovered while they have worked on the post of Ag.I (M), there was not fault of the workmen, no charge sheet etc. was given to them. With the above pleadings the Sangh has prayed to set aside the impugned order dated 30.10.2000 passed by the management whereby promotion granted in 1991, 92, 93 to 68 workmen of FCI were cancelled/withdrawn, consequently they were reversed. Direction has also been sought for the FCI to pay all the consequential benefits of promotion from the date the workmen were promoted and to award cost as well.

The opposite party has filed written statement A2-15, denying the main allegation taken by the workmen in the claim statement. The opposite party has stated that a show cause notice was served upon all the effective parties, and thereafter the order was enforced, opportunity of hearing was also provided. The management has emphasized that the said action was taken in pursuance of the directions given by Hon'ble Delhi High Court *vide* its judgement dated 14.01.1992 which was reiterated on 11.11.1994 resulting into recasting of the seniority. The opposite party has stated the SLP was dismissed by Hon'ble Supreme Court, thereafter in the absence of availability of vacancies show cause notice was issued to the effected workmen but none of them approached the opposite party, neither they ever demanded any document. The management has submitted that it was upon the workman to approach and demand any document which they required.

It has been stated in the written statement that before the reversion of the workmen, sufficient vacancies were created under Career Progressive Scheme in the year 2000 and they were promoted notionally as Ag.I (D), *vide* office order dated 30.10.2000 regarding fixation of inter-se seniority, zonal seniority position, earlier promotion order issued during 1991-93 was cancelled/withdrawn, the pre revised seniority list became impugnable.

The opposite party further stated that in pursuance of Hon'ble High Court's judgement Zonal Office revised seniority list of the initial grade by adopting the procedure laid down in regulation 16(1) and the revised zonal seniority list was circulated, the impugned order was made effective and it is legal just and in accordance with law, enforced in pursuance of the Hon'ble High Court orders. It has also been emphasized that Dy. Zonal Manager is competent authority in the case of promotion of the category 3 official. The opposite party has stressed that the applicants workmen are not entitled to any relief.

Rejoinder A1-17 was filed by the Karmchari Sangh wherein averments taken in the written statement were denied and main assertions taken in the claim statement have been reiterated.

As per list C-23 36 documents have been filed by the workmen.

Earlier the then Hon'ble Presiding Officer of this court has passed an award dated 06.10.2006, which on the misc., application AI dated 21.11.2006, moved by the workmen, was recalled *vide* another order dated 30.05.2007, since the earlier award was treated as an ex-parte award. Consequently the proceedings of the industrial dispute were initiated as fresh.

On behalf of the workmen, affidavit A-30 of Sri S.B. Singh was filed in the court, he was thoroughly cross-examined on behalf of the opposite party. Sri S.B. Singh in his cross examination has admitted the notice was issued to workmen, wherein an order of Hon'ble Supreme Court was referred. Although the witnesses have asserted that there was no such direction given by the Hon'ble Supreme Court, his assertion has not been corroborated by any cogent evidence or documents. It has also been admitted by him that the reversion order was not challenged before any other competent authority.

It has been argued by the management that the effected workmen might have attained the age of superannuation by now; moreover notional promotion had already been given to the deserving workmen.

It is evident from the perusal of the record, that as consequence of the directions dated 14.01.1992 and 11.01.2004 given by Hon'ble Delhi High Court and another direction given by Hon'ble Punjab & Haryana High Court on 08.12.1989, integrated Zonal seniority was determined, since no relief was further provided by Hon'ble Supreme Court of India. It is also quite relevant to mention here that most of the effected officials were notionally promoted, subject to the decision of the court cases.

Karmchari Sangh has measurably failed to produce before this court any reliable evidence in support of the pleading taken in the claim statement. Therefore, any



allegality or irregularity in the impugned reversion orders passed by FCI against said 68 workmen vide office order dated 30.10.2000, cannot be inferred. The aforesaid reversion order appears to be perfectly legal and justified. The reference under adjudication is answered as NO CLAIM AWARD.

Award as above.

LUCKNOW

03.08.2015

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 20 अगस्त, 2015

का०आ० 1683.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डीसीसी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकत्ता के पंचाट (संदर्भ संख्या 39/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/08/2015 को प्राप्त हुआ था।

[सं० एल - 22012/451/1996 - आईआर (सी-II)]  
राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 20th August, 2015

**S.O. 1683.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 39/1997) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Kolkata as shown in the Annexure, in the industrial dispute between the management of Dankuni Coal Complex, and their workmen, received by the Central Government on 20/08/2015.

[No. L-22012/451/1996-IR (C-II)]  
RAJENDER SINGH, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL

AT KOLKATA

Reference No. 39 of 1997

Parties: Employers in relation to the management of  
Dankuni Coal Complex

AND

Their workmen.

Present: Justice Dipak Saha Ray,

... Presiding Officer

Appearance:

On behalf of the : Mr. Uttam Kumar Mondal, Ld.  
Management Counsel,

On behalf of the : Mr. Saibal Mukherjee, Ld.  
Workman Counsel.

Sate: West Bengal. Industry: Coal.  
Dated: 4th August, 2015.

### AWARD

By Order No. L-22012/451/96-IR(C.II) dated 10.09.1997 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Dankuni Coal Complex of CIL

- (1) In denying to promote S/Sh. R.S. Roy, Avay Pada Samanta, Parimal Acharya and Dulal Rajbanshi *w.e.f.* 26.04.91 along with Sh. A. Chakraborty is legal and justified; and
- (2) In superceeding Sh. Gopal Chandra Mondal by Sh. Adinath Chakraborty in promotion to T&S Gr. 'C' is legal and justified?

if not, to what relief are the workmen entitled and from which date?"

2. When the case is taken up for today for hearing, Ld. Counsel appearing on behalf of the union submits that he has got instruction from the Secretary of the union, namely, Shri Partha Sarathi Roy, who is also present before the Tribunal that the union is not willing to proceed with the case further as all the concerned workmen have retired from service.

3. Considering the above facts and circumstances and the submission of the Ld. Counsel for the union it appears that no fruitful purpose will be served in keeping the matter pending.

4. In view of the above facts and circumstances, the present reference is disposed of by passing a "No Dispute Award".

JUSTICE DIPAK SAHA RAY, Presiding Officer

Dated, Kolkata,

The 4th August, 2005

नई दिल्ली, 20 अगस्त, 2015

का०आ० 1684.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डीसीसी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकाता के पंचाट (संदर्भ संख्या 35/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/08/2015 को प्राप्त हुआ था।

[सं० एल-22012/87/2013-आईआर(सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 20 August, 2015

**S.O. 1684.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 35/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour, Kolkata as shown in the Annexure, in the industrial dispute between the management of Dankuni Coal Complex, and their workmen, received by the Central Government on 20/08/2015.

[No. L-22012/87/2013-IR(CM-II)]

RAJENDER SINGH, Section Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

#### Reference No. 35 of 2013

**Parties:** Employers in relation to the management of  
Dankuni Coal Complex

AND

Their Workmen

**Present :** Justice Dipak Saha Ray, Presiding Officer

#### Appearance:

On behalf of the : Mr. Uttam Kurnar Mondal, Ld.  
Management Counsel for Dankuni Coal  
Complex.

None for M/s. B.N. Enterprise.

On behalf of the : None  
Workman

State: West Bengal. Industry: Coal.

Dated: 2nd July, 2015.

#### AWARD

By Order No. L-22012/87/2013-IR(CM-II) dated 17.07.2013 and Corrigendum of even number dated 14.07.2014 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

"Whether the action for the management of Dankuni Coal Complex in not allowing Sri Somnath Bag, General Secretary, Dankuni Coal Complex Contractor's Labour Union to enter into their establishment on 07.11.2012 and disengagement from job by M/s. B.M. Enterprise, Contractor is legal and/or justified? If not, what relief the workman is entitled to?"

2. When the case was taken up on 30.06.2015, none appeared on behalf of the union, none also appeared on behalf of M/s. B.N. Enterprise though the management

was represented by its Ld. Counsel, it appears from the record that none also appeared on behalf of the union on the previous two consecutive dates.

3. Considering the facts and circumstances, it may reasonably be presumed that the union is not interested to proceed with this reference case further. So, no fruitful purpose will be served in keeping the matter pending.

4. In view of the above facts and circumstances, present reference is disposed of by passing a "No Dispute Award".

JUSTICE DIPAK SAHA RAY, Presiding Officer

Dated, Kolkata

The 2nd July, 2015

नई दिल्ली, 20 अगस्त, 2015

**कांआ 1685.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-1, दिल्ली के पंचाट (संदर्भ संख्या 1/2011, 3/2011, 4/2011, 5/2011, 6/2011, 7/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/08/2015 का प्राप्त हुआ था।

[सं एल-40011/09/2010-आईआर (डीयू),  
सं एल-40011/12/2010-आईआर (डीयू),  
सं एल-40011/13/2010-आईआर (डीयू),  
सं एल-40011/14/2010-आईआर (डीयू),  
सं एल-40011/15/2010-आईआर (डीयू),  
सं एल-40011/17/2010-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 20th August, 2015

**S.O. 1685.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 1/2011, 3/2011, 4/2011, 5/2011, 6/2011, 7/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Limited and their workmen, which was received by the Central Government on 19/08/2015.

[No. L-40011/09/2010-IR(DU),  
No. L-40011/12/2010-IR(DU),  
No. L-40011/13/2010-IR(DU),  
No. L-40011/14/2010-IR(DU),  
No. L-40011/15/2010-IR(DU),  
No. L-40011/17/2010-IR(DU)]

P. K. VENUGOPAL, Desk Officer

**ANNEXURE**

**IN THE COURT OF SHRI AVTAR CHAND  
DOGRA, PRESIDING OFFICER, CENTRAL  
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-  
LABOUR COURT NO. 1, KARKARDOOMA COURT  
COMPLEX, DELHI**

**ID No. 1/2011**

Sh. Himmat Singh  
S/o Shri Kundan Singh  
Vill. Reta, Post Bannakhera,  
Udhamsingh Nagar

... Workman

**Versus**

1. The Chief General Manager,  
Bharat Sanchar Nigam Limited,  
Uttarakhand Circle,  
Dehradun

2. The Telecom District Manager  
Bharat Sanchar Nigam Limited,  
Haldwani

... Management

**AWARD**

Background facts giving rise to the reference are that the claimant, Shri Himmat Singh was engaged as casual labourer on 01.01.1995 under Sub Divisional Officer, Kashipur in the Department of Telecommunication, Rudrapur, Nainital, Uttar Pradesh. Shri Beg Sahib was the SDO of the workman at the time of his initial appointment, who has also issued certificate to the claimant showing the number of days the claimant has worked and the same is Annexure P-1.

2. Thereafter, the claimant continued to work with the Department of Telecommunication under SDO, Puran Singh from 01.01.1995 to 01.01.1996 for 336 days and certificate is Annexure B. Similarly, the claimant worked from 01.02.1996 to 01.10.1996 under SDO Shri Puran Singh for a total of 104 days as a clear from Annexure P-2.

3. After the year 2005, the claimant has been paid through ACA-17 slip by SDO Kedar Rai. Thus, the workman had been working continuously in the Department of Telecommunications and thereafter the department of Telecommunications framed the scheme of grant of temporary status to the casual labourers known as 'Grant of Temporary Status and Regularization Scheme', which came into effect on 01.10.1989. Clauses 5 of the said Scheme is as under:

5. Temporary status—

- (i) Temporary status would be conferred on all casual labourers who are in employment on the date of

issue of this OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).

- (ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts.
- (iii) Conferment of temporary status on a casual labourer would not involve and change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment unit/territorial circle on the basis of availability of work.
- (iv) Such casual labourers who acquire temporary status will not, however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts.

4. After coming into force of the above scheme, Department of Telecommunication issued circular dated 07.11.1989 stating that the said Scheme would be made applicable to those casual labourer who were engaged prior to 01.04.1985. However, the said circular was held to be illegal by the Hon'ble Supreme Court in the matter of Braj Kishore Vs. Union of India, wherein it has been held that the above scheme would be applicable to all those casual labourer who had continuously worked for a period of one year irrespective of the cut off date, i.e. 10.04.1985. Since the claimant was working in the Department of Telecommunication continuously, as such, he was entitled to the benefits of the Scheme discussed above. It is also clear that as per the above Scheme, a person who has continuously worked for 10 years from the date of engagement was entitled to be regularized and applying the grant of temporary status scheme several other casual workers were permanently regularized who have served for 10 years from the date of their original engagement.

5. It is also clear from the statement of claim that in the year 2000, assets and liabilities of Department of Telecommunication were transferred to a Government Company known as Bharat Sanchar Nigam Ltd. and all the officers and employees of all cadres became employees of BSNL. Management, with a view to deny legitimate rights of the claimants in the year 2006 placed the workers under the Contractor and at that time Shri R.P. Singh was the SDO under whom the contractor started working. Being aggrieved, the workers approached the labour authorities and ultimately dispute for regularization of such workers were referred to the Labour Court in Delhi. Since the

claimant has been working in the Department of Telecommunication for more than 20 years, as such he was to get benefit of the Scheme discussed above. He was entitled for grant of temporary status initially and thereafter was required to be regularized as regular Mazdoor.

6. Management was put to notice and on appearance filed written statement wherein Respondent No. 1 and 2 took preliminary objections *inter alia* of cause of action, workman not approaching the court with clean hands, malafide and concealing of material facts etc. It was also alleged that present reference is bad for non-joinder of necessary parties, since the workman has been working under the contractor who was required to be impleaded as a party. It is further alleged that in order to meet exigencies of the work, respondents have taken services of a contractor for providing work force on part-time basis on some dates. As such, engagement of casual workers do not confer upon any workman any automatic right of regularization. On merits, it has been denied that the claimant was engaged as casual labourer since 01.03.1987 on muster roll under Shri Joshi, SDO Kashipur. It is also denied that the claimant worked continuously with Department of Telecommunication under Shri Beg Sahib, SDO. Claimant was not paid wages through ACA 17 slip by SDO Kedar Rai from 2005. Management also denied other material averments made in the statement of claim.

7. Since conciliation between the parties could not be arrived at when the matter was referred to the Regional Labour Commission, as such the Union Government under sub section 2A of Section 10 of the Industrial Disputes Act, 1947, made the following reference:

"Whether the demand of Shri Himmat Singh., S/o Shri Kundan Singh, for reinstatement and regularization of his services with effect from 28.02.2006 in Bharat Sanchar Nigam Limited, who worked with them since last 20 years is valid and justified? If yes, what relief the workman is entitled to?"

8. Claimant, herein, filed statement of claim as discussed above and on which written statement was filed by Respondent No. 1 and 2, i.e. the managements.

9. It is clear from order dated 07.03.2011 passed by my learned predecessor that no specific issues were framed. It was clarified that no other issue than those referred by the appropriate Government under Section 10 of the ID Act for adjudication, is made out.

10. Claimant, in support of his case, examined himself as WW1 and adduced both oral as well as documentary evidence in support of the stand taken in the statement of

claim. Similarly, the management examined Shri R.P. Singh as MW1 so as to rebut the case of the claimant.

11. I have heard Shri Rajinder Singh Palni, A/R for the claimant and Shri Lokesh Sukhwani, A/R for the management.

12. Shri Palni, appearing on behalf of the claimant, urged that the claimant herein was employed as casual labourer by the Department of Telecommunications from 01.03.1987 and in this regard, attention of the court was invited to Ex.WW1/1 (Annexure P1), which is a certificate issued by Junior Telecom Officer Kashipur wherein month-wise details of attendance of the claimant herein has been mentioned. There is another certificate Ex.WW1/2 (Annexure P2) which also contains similar details and number of total working days of the claimant during the year 1996 as 104. There is another certificate Ex.WW1/3 which also contains details of attendance of the claimant herein for the year 2003 and total number of working days, i.e. 269. Ex.WW1/4 also contains details of attendance of the claimant herein for the year 2004 and total number of working days is 290. It is, further, clear from the affidavit Ex.WW1/A of the claimant Shri Himmat Singh that he has tried to support all the material averments contained in the statement of claim in the said affidavit. Claimant was subjected to cross examination, but there is hardly anything to impeach his credit. Claimant has also made reference to photograph Ex.WW1/5 to Ex.WW1/13 in his statement.

13. During the course of arguments, much reliance was placed upon the Scheme which came into force on 19.10.1989 regarding of temporary status to casual workmen. It was not disputed even by the respondent that in fact the said Scheme was followed by Department of Telecommunication and in view of the judgement of the Hon'ble Apex Court in the case of Braj Kishore Vs. Union of India, it has been observed that the Scheme is fully applicable to all the casual labourer who have worked for a period of one year irrespective of the cut off date, i.e. 01.04.1985. Thus, it is strongly agued on behalf of the claimant that in view of the above Scheme as well as judgment of the Hon'ble Apex Court, management was legally required to grant temporary status as per the above Scheme to the claimant herein.

14. Per contra, Shri Lokesh Sukhwani, A/R for the management, urged that documents in the present case relating to attendance of the workman Ex.WW1/9 have not been proved by the workman in accordance with law and as such no reliance can be placed upon such vague and fictitious documents. Similarly, Shri Joshi was not the SDO at the relevant time as mentioned in the affidavit of the workman, which fact the workman has admitted in his



statement while appearing as WW1. Secondly, the learned authorized representative of the management proceeded to argue that the workman was not engaged as a casual labourer in a legal manner and in view of the judgement of the Hon'ble Supreme Court in Uma Devi (2006) 4 SCC I, their appointment/engagement was purely illegal being in violation of statutory principles. As such, he cannot be granted any permanent status. Therefore, there is no question of regularization of service of such workmen.

15. Before I proceed to consider the comparative merits of the submissions placed on behalf of either parties, it is pertinent to note here that during the course of arguments, it was not disputed that Department of Telecommunications had issued a circular dated 07.11.1999 and it was made applicable from 01.10.1999 as alleged in para 6 of the statement of claim and the same was applicable to casual labourers who were engaged prior to 01.04.1985. The said circular admittedly was held to be illegal by the Hon'ble Apex Court in Braj Kishore vs. Union of India wherein observations have been made that the above Scheme of casual workers would be applicable to all casual labourer who had continuously worked for a period of one year irrespective of the cut off date, i.e. 01.04.1985.

16. Now the moot question which requires determination in the present case is whether the claimant was directly engaged as casual labourer as alleged by him in the year 1987 under SDO Kashipur. In this regard, it is appropriate to refer to the pleadings as well as affidavit of the workman, Shri Himmat Singh, filed as Ex.WW1/A wherein the workman has reiterated the stand taken in his statement of claim. Certificate Ex.WW1/1, clearly shows that from January 1995 till January 1996, claimant herein, was working as casual labourer in Department of Telecommunications and the said certificate is signed by Sub Divisional Engineer. He has denied that Ex.WW1/1 is fake. He has also denied certificate Ex.WW1/M1 is false. He further denied that he has not worked for 240 days with the management in any calendar year.

17. Management in order to rebut the case of the claimant, examined Shri R.P. Singh, SDO as MW1, whose affidavit is Ex.MW1/A, which is almost on the similar lines as the stand taken in the written statement. He has averred in the affidavit that the Department has imposed ban on recruitment/engagement of casual labourer *vide* circular 22.01.1988. He has also relied upon the instructions contained in the manual extract, Ex.MW1/2. Further stand of the management has been that the claimant has not worked for a period of 240 days in any calendar year. In his cross examination, he has feigned ignorance whether at present claimant is working under the contractor. He has

denied the suggestion that prior to December 2005, the claimant was working under the management. He has admitted that Ex.WW1/17 to Ex.WW1/42 were supplied to the workman under the RTI Act. He has further made a vital admission that name of Shri Himmat Singh is mentioned in the above documents alongwith period of his engagement. He has further admitted Ex.WW1/18 was issued by the management and he has not carefully perused most of these documents earlier.

18. It is clear from the resume of evidence on record that the management has taken the plea that the claimant herein has not worked at any time directly under the management. However, evidence on record is crystal clear that the claimant, even in the year 1995 was employed as casual labourer by the Department of Telecommunications as is evident from perusal of certificate Ex.WW1/1 and Ex.WW1/4. Bare perusal of the above certificate clearly shows that the claimant herein was employed as a casual labourer in January 1995 and in the said month he worked for 30 days, in the month of February 1995 for 20 days. Admittedly, Ex.WW1/1 clearly shows that the claimant herein was working as casual labourer in Department of Telecommunications.

19. It was argued with much vehemence that the documents relied upon by the claimant are fake and forged; as such they cannot be relied upon. There are other documents filed by the claimant, which clearly shows that till 2005, the claimant herein was directly working with Department of Telecommunications and there is nothing on record to suggest that these documents are fake or fictitious. It is pertinent to note that SDO, Shri R.P. Singh, appearing as MW1, has clearly deposed in his cross examination that documents Ex.WW1/17 to Ex.WW1/42 was supplied to the claimant under the RTI Act. He has, further, made a vital admission that the name of the claimant, Shri Himmat Singh, finds mention in all these documents alongwith the period of his engagement. In view of the clear cut admission made by Shri R.P. Singh, MW1, in his cross examination, regarding supply of the above documents, it does not lie in the mouth of the management to say that the documents in question are fake or fictitious. Even, *prime facie*, examination of all these documents clearly shows that they are issued by Bharat Sanchar Nigam Limited and the name of Shri Himmat Singh, the claimant herein finds mention in all the documents alongwith period of his employment. These documents also prove that the claimant has worked with Bharat Sanchar Nigam Limited till 2005. It is admitted case of parties that Department of Telecommunications stood converted to a Government Company, i.e. Bharat Sanchar Nigam Ltd. Thus, there is no

merit in the contention of the management that documents Ex.WW1/1 to Ex.WW1/42 cannot be taken into consideration being photocopies of the original as no objection was raised when these documents were tendered in evidence or exhibited by the claimant. As discussed, documents Ex.WW1/17 to Ex.WW1/24 were supplied to the workman under the RTI Act. Therefore, there is no question of these documents being fake or fictitious. No doubt, it is settled proposition of law that mere production and marking of documents as exhibit by the court cannot be held to be due proof of its contents. Its execution is to be proved by admissible evidence. Situation is, however, different when documents are produced and their genuineness is not disputed by the opposite party when they are tendered in evidence or when they are marked as exhibits. I am fortified in my opinion from the case of RVE Venkatachala Gounder versus A.V.V.P. Temples (AIR 2003 SC 4548). This was a case where the Hon'ble Apex Court dealt at length with the question of mode of proof and admissibility of documents and after considering entire case law on the subject, it was held as under:

"An objection to the admissibility of the document should be raised before such endorsement is made and the Court is obliged to form its opinion on the question of admissibility and express the same on which opinion would depend the document being endorsed as admitted or not admitted in evidence. In the latter case, the document may be returned by the Court to the person from whose custody it was produced.

Ordinarily an objection to the admissibility of evidence should be taken when it is tendered and not subsequently. The objections as to admissibility of documents is evidence may be classified into two classes:—(i) an objection that the document which is sought to be proved is itself inadmissible in evidence; and (ii) where the objection does not dispute the admissibility of the document in evidence but is directed towards the mode of proof alleging the same to be irregular or insufficient. In the first case, merely because a document has been marked as 'an exhibit', an objection as to its admissibility is not excluded and is available to be raised even at a later stage or even in appeal or revision. In the latter case, the objection should be taken before the evidence is tendered and once the document has been admitted in evidence and marked as an exhibit, the objection that it should not have been admitted in evidence or that the mode adopted for proving the document is irregular cannot be allowed to be raised at any stage subsequent to the marking of the document as an exhibit.'

20. The same view appears to have been taken in the case of *Narbada Devi Gupta versus Birendra Kumar Jaiswal* (AIR 2004 SC 175). In view of the ratio of law discussed

above, it is clear in the present case that no objection was taken by the management (i.e. opposite party) when workman while appearing as WW1 tendered photocopy in evidence. Now, it is too late in the day to urge that the above document, original of which is obviously in possession of the management, has not been proved in accordance with law. Since at no point of time validity of these document was questioned during the course of evidence, as such, contention of the management deserves to be rejected.

21. In view of the above evidence on record, it is held that claimant herein was working as casual labourer during the period 1987 to 2005 in the establishment of the management.

22. Now, the residual question is whether the claimant has worked for 240 days in a calendar year so as to get the benefit of the Scheme framed by Department of Telecommunications regarding grant of temporary status to the casual labourers. Sub clause 1 of Clause 5 of the above Scheme clearly provides that temporary status would be conferred on all casual labourers currently employed and have rendered continuous service for one year in a calendar year. Such casual labourer will be designated as temporary mazdoor. Clause 2 further provides that said conferment of temporary status would be without reference to the creation/availability of regular Group D posts.

23. As discussed above, perusal of certificate Ex.WW1/1 to Ex.WW1/4 as well as documents Ex.WW1/17 to Ex.WW1/42 clearly shows that the claimant herein worked for more than 240 days in each of the calendar years. In fact, combined reading of these documents shows that claimant herein from January 1995 till 2005 was in the employment of Department of Telecommunications/BSNI. Thus, the workman herein is liable to be given status of temporary mazdoor in view of the Scheme for grant of temporary status.

24. It was argued with much vehemence by Shri Lokesh Sukhwani, learned authorized representative of the management, that most of the workman who are alleging themselves to be employees of the management were in fact never employed in accordance with any rules or regulations nor there is any specific order regarding employment of such workmen. Appointment of such workman. Appointment of such workman, in the contention of the authorized representative of the management, is backdoor appointment and as such, in view of the ratio of judgement of Hon'ble Apex court in *Secretary State of Karnataka vs Uma Devi* (2006) 4 SC1, Claimant herein cannot claim to be regularized in derogation of the rules, being back door entry in as much as their appointment is totally illegal.

25. I have carefully gone through the ratio of the above judgement and this plea of the management even did not find favour with the Hon'ble Supreme Court. There are observations that decision of Constitution Bench in Uma Devi case is not attracted or applicable when the question simply is regularization or mere grant of temporary status to daily or casual labourers. Tribunal cannot ignore that the claimant herein is doing the same kind of job and performing same work which is being performed by workers who are currently employed. The work in question not contingent in nature and the same is perennial and still the management is employing such workers, sometimes through contractors for the performance of needful job.

26. During the course of arguments, reliance was also placed upon judgement of Hon'ble Apex Court in Maharashtra State Road Transport and another vs. Casteribe Rajya Parivahan Karamchari Sanghatana (2009) 8 SCC 556. In the said case, Hon'ble Apex Court dealt with the question of unfair labour practice and specific reference was made to Uma Devi Case (2006) 4 SCC and it was held as under:

"34. It is true that the case of Dharwad District PWD Literate Daily Wage Employees Association vs. State of Karnataka (1990 2 SCC 396) arising out of industrial adjudication has been considered in Umadevi (3) (2006 (4) SCC 1) and that decision has been held to be not laying down the correct law but a careful and complete reading of decision in Umadevi (3) leaves no manner of doubt that what this Court was concerned in Umadevi (3) was the exercise of power by the High Court under Article 226 and this Court under Article 32 of the Constitution of India in the matters of public employment where the employees have been engaged as contractual, temporary or casual workers not based on proper selection as recognized by the rules or procedure and yet orders of their regularization and conferring them status of permanency have been passed.

35. Umadevi(3) is an authoritative pronouncement for the proposition that Supreme Court (Article 32) and High Court (Article 226) should not issue directions of absorption, regularization or permanent continuance of temporary, contractual, casual, daily wage or *ad-hoc* employees unless the recruitment itself was made regularly in terms of constitutional scheme.

36. Umadevi(3) does not denude the Industrial and Labour Courts of their statutory power under Section 30 read with Section 32 of MRTU & PULP Act to order permanency of the workers who have been victim of unfair labour practice on the part of the employer under item 6 of Schedule IV where the posts on which they have been working exists.

Umadevi (3) cannot be held to have overridden the powers of Industrial and Labour Courts in passing appropriate order under Section 30 of MRTU/PULP Act, once unfair labour practice on the part of the employer under item 6 of Schedule IV is established."

27. In UP State Electricity Board vs. Pooran Chandra Pandey and Others 2007(12) Scale 304, the Hon'ble Apex Court has held that the judgement in Uma Devi case cannot be applied mechanically without seeing the facts of a particular case. There are clear observations in the above judgement that ratio of Uma Devi (Supra) is not attracted to a case where simply temporary status or regularization has been sought in pursuance of Article 14 of the Constitution.

28. Yet, in another judgement, Hon'ble Apex Court, in the case of Ajaypal Singh Vs. Haryana Warehousing Corporation (2015) 6 SCC 321 dealt with almost similar question as to whether a workman employed in an industry who had completed more than 240 days of service in preceding calendar year, but his services were terminated with effect from 01.07.1988 without one month's notice or pay in lieu thereof in terms of Section 25F of the ID Act. On a reference to the Labour Court, it was held by the Labour Tribunal that termination of service of the worker was illegal and he was entitled to be reinstated with full back wages. This award was challenged by the employer before the High Court in a writ petition and the High Court held that appointment of the worker was made in violation of Article 14 and Article 16 of the Constitution of India. Therefore, the workman was held not to be entitled to be reinstated. However, compensation was awarded to the workman. Aforesaid order was affirmed by Division Bench of the High Court. When the matter was taken by the workman to the Hon'ble Apex Court, plea of irregular or illegal appointment being in violation of article 14 and Article 16 of the Constitution was out-rightly rejected by the Hon'ble Apex Court by observing as under:

"When no such plea is taken by the employer in the order or retrenchment that the workman was appointed in violation of Articles 14 and 16 of the Constitution or in violation of any statutory rule or his appointment was a back door appointment, while granting relief, it is not open to the employer of a public industrial establishment and undertaking to take a plea that initial appointment of such workman was made in violation of Articles 14 and 16 or the workman was a back door appointee, in absence of a reference made by the appropriate Government for determination of question whether the initial appointment of the workman was in violation of Articles 14 and 16 or statutory rules. Only if such reference is made, a workman is required to lead evidence to prove that he was appointed by following procedure prescribed under the Rules and his initial appointment was legal.



29. Yet, in another case, *i.e.* ONGC vs. Petroleum Coal Labour Union (2015) Lab. IC 2483, Hon'ble Apex Court dealt with the question of non-regularization of the workmen who were alleged to be not recruited in accordance with the rule/regulations or by following due procedure under the law. In the said case also, the workmen were initially employed as security guards and security supervisors through a contractor. Later on, due to settlement between the workers union and the management, their services were utilized by ONGC through Co-operative Society to meet its security requirements. Later on, due to decision taken by the Corporation, security work was entrusted to Central Industrial Security Force (CISF) to protect their installation. Matter was taken by the employees union before the High Court on the grounds that this amounts to breach of settlement already arrived at between the parties and Corporation took the stand that workers were not entitled for retention and regularization as their recruitment was not as per norms. Though the employees union lost the case before Single Judge of the Hon'ble High Court, but later on when the matter went to Supreme Court, it was held as under:

"Even though due procedure was not followed by the Corporation for the appointment of the concerned workmen in the post of 'ward and watch security, this does not disentitle them of their right to seek regularization of their services by the Corporation under the provisions of the Certified Standing Orders, after they have rendered more than 240 days of service in a calendar year from the date of the memorandum of appointment issued to each one of the concerned workmen in the year 1988. The alleged 'policy decision' to appoint CISF personnel to the security post is on deputation basis and cannot be called appointment per se. Whereas, the concerned workmen have acquired their right to be regularized under the provision of Clause 2(ii) of the 'Certified Standing Orders'.

Further, the concerned workmen have clearly completed more than 240 days of services subsequent to the memorandum of appointment issued by the Corporation in the year 1988 in a period of twelve calendar months, therefore, they are entitled for regularization of their services into permanent posts of the Corporation as per the Act as well as the Certified Standing Orders of the Corporation."

30. In the case in hand also, it is not the case of the management that initial appointment of the workman herein is in violation of Article 14 and 16 of the Constitution of India. Rather management has come with the plea that the workman herein was never employed in the year 1987 and was directly working under the contractor.

31. There is no merit in the contention of the management that workman herein is an employee of the

contractor. There is nothing on record to suggest as to who was the contractor to whom the management had given the work in question. It was incumbent upon the management to have brought on record all the relevant documents, which show that contractor was awarded contract for employment of casual labourers who were otherwise working for the benefit of the management. Even name of such contractor has not been disclosed by the management. Accordingly, it is held workman herein is/was in the employment of the management.

32. Since this Tribunal has already observed that the workman herein was working under the Department of Telecommunication/Bharat Sanchar Nigam Ltd. right from the year 1987 till the end of 2005, as such workman is held to be in the employment of the respondent management. As a sequel to the above, workman herein is also entitled to be given temporary status in view of the Scheme of 'Grant of Temporary Status and Regularization Scheme'.

33. So far as question of regularization of service of the workman is concerned, it is clear from record that no rules or regularization or standing order governing the procedure to be followed for regularization of such temporary employees have been filed by either of the parties. Moreover, law is very clear that grant of regularization is not a matter of course and it depends on the facts and circumstances as well as rules and regulations governing such matters. Equally settled is the law that there cannot be any regularization dehors the rules.

34. Consequently, it is held that the workman herein would be duly considered for regularization if the rules or regulations applicable in this regard entitle the workman for such regularization. If similarly situated employees working in the management of the respondent, have been regularized, in that eventuality, workman herein would also be duly considered for such absorption or regularization. Hence, issue is answered accordingly. Hence, an award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated: July 28, 2015

A. C. DOGRA, Presiding Officer

**ANNEXURE**

**IN THE COURT OF SHRI AVTAR CHAND DOGRA,  
PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT NO. 1 KARKARDOOMA  
COURT COMPLEX, DELHI**

**ID No. 3/2011**

Sh. Rattan Lal Singh  
S/o Shri Ram Kishan Singh  
Vill, Bhoop Singh, Post Jaspur,  
Udhamsingh Nagar

...Workman



**Versus**

1. The Chief General Manager,  
Bharat Sanchar Nigam Limited,  
Uttarakhand Circle,  
Dehradun
2. The Telecom District Manager  
Bharat Sanchar Nigam Limited,  
Haldwani-

**AWARD**

Background facts giving rise to the reference are that the claimant, Shri Rattan Lal Singh was engaged as casual labourer on 01.08.1986 under Sub Divisional Officer, Kashipur in the Department of Telecommunication, Rudrapur, Naintal, Uttar Pradesh. Shri Madan Chandra was the SDO of the workman at the time of his initial appointment, who has also issued certificate to the claimant showing the number of days the claimant has worked and the same in Annexure P-1.

2. Thereafter, the claimant continued to work with the Department of Telecommunication under SDO, Madan Chandra in 1990, under SDO Shri Kedar Rai from 1991 to 2001 and Shri Ram Ramji from 2002 to 2004 and in 2005 under SDI Shri Saxena.

3. After the year 2005, the claimant has been paid through ACA-17 slip by SDO Kedar Rai. Thus, the workman had been working continuously in the Department of Telecommunications and thereafter the department of Telecommunication framed the scheme of grant of temporary status to the casual labourers known as 'Grant of Temporary Status and Regularization Scheme,' which came into effect on 01.10.1989. Clause 5 of the said Scheme is as under:

## 4. Temporary status-

- (i) Temporary status would be conferred to all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).
- (ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts.
- (iii) Conferment of temporary status on a casual labourer would not involve and change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment until/territorial circle on the basis of availability of work.
- (iv) Such casual labourers who acquire temporary status will not, however, be brought on the permanent establishment unless they are selected through regular selection process for Group 'D' posts.

5. After coming into force of the above scheme, Department of Telecommunication issued circular dated 07.10.1989 stating that the said Scheme would be made applicable to those casual labourer who were engaged prior to 01.04.1985. However, the said circular was held to be illegal by the Hon'ble Supreme court in the matter of Braj Kishore Vs. Union of India, wherein it has been held that the above scheme would be applicable to all those casual labourer who had continuously worked for a period of one year irrespective of the cut off date, *i.e.* 10.04.1985. Since the claimant was working in the Department of Telecommunication continuously, as such, he was entitled to the benefits of the Scheme discussed above. It is also clear that as per the above Scheme, a person who has continuously worked for 10 years from the date of engagement was entitled to be regularized and applying the grant of temporary status scheme several other casual workers were permanently regularized who have served for 10 years from the date of their original engagement.

6. It is also clear from the statement of claim that in the year 2000, assets and liabilities of Department of Telecommunication were transferred to a Government Company known as Bharat Sanchar Nigam Ltd. and all the officers and employees of all cadres became employees of BSNL. Management, with a view to deny legitimate rights of the claimants in the year 2006 placed the workers under the Contractor and at that time Shri R.P. Singh was the SDO under whom the contractor started working. Being aggrieved, the workers approached the labour authorities and ultimately dispute for regularization of such workers were referred to the Labour Court in Delhi. Since the claimant have been working in the Department of Telecommunication for more than 20 years, as such he was to get benefit of the Scheme discussed above. He was entitled for grant of temporary status initially and thereafter was required to be regularized as regular Mazdoor.

7. Management was put to notice and on appearance filed written statement wherein Respondent No. 1 and 2 took preliminary objections *inter alia* of cause of action, workman not approaching the court with clean hands, malafide and concealing of material facts etc. It was also alleged that present reference is bad for non-joinder of necessary parties, since the workman has been working under the contractor who was required to be impleaded as a party. It is further alleged that in order to meet exigencies of the work, respondents have taken services of a contractor for providing work force on part-time basis on some dates. As such, engagement of casual workers do not confer upon any workman any automatic right of regularization. On merits, it has been denied that the claimant was engaged as casual labourer since 01.08.1986 on muster roll under Mahesh Chandra, SDO Kashipur. It is also denied that the claimant worked continuously with Department of Telecommunication under SDO, Kashipur. Claimant was not paid wages through Act 17 slip by SDO Kedar Rai from

2005. Management also denied other material averments made in the statement of claim.

7. Since conciliation between the parties could not be arrived at when the matter was referred to the Regional Labour Commission, as such the Union Government under sub section 2A of Section 10 of the Industrial Disputes Act, 1947, made the following reference:

“Whether the demand of Shri Rattan Lal Singh, S/o Shri Ram Singh, for reinstatement and regularization of his services with effect from 28.02.2006 in Bharat Sanchar Nigam Limited, who worked with them since last 20 years is valid and justified? If yes, what relief the workman is entitled to.?”

8. Claimant, herein filed statement of claim as discussed above and on which written statement was filed by Respondent No. 1 and 2, i.e. the managements.

9. It is clear from dated 07.03.2011 passed by my learned predecessor that no specific issues were framed. It was clarified that no other issue than those referred by the appropriate Government under Section 10 of the ID Act for adjudication, is made out.

10. Claimant, in support of his case, examined himself as WW1 and adduced both oral as well as documentary evidence in support of the stand taken in the statement of claim. Similarly, the management examined Shri R.P. Singh as MW1 so as to rebut the case of the claimant.

11. I have heard Shri Rajinder Singh Palni, A/R for the claimant and Shri Lokesh Sukhwani, A/R for the management.

12. Shri Palini, appearing on behalf of the claimant, urged that the claimant herein was employed as casual labourer by the Department of Telecommunications from 01.08.1986 and in this regard, attention of the court was invited to Annexure P1, which is a certificate issued by S.D.O. Kashipur wherein month-wise details of attendance of the claimant herein has been mentioned. It is, further, clear from the affidavit EX.WW1/A of the claimant Shri Rattan Lal Singh that he has tried to support all the material averments contained in the statement of claim in the said affidavit. Claimant was subjected to cross examination, but there is hardly anything to impeach his credit. Claimant has also made reference to photograph Ex.WW1/2 in his statement.

13. During the course of arguments, much reliance was placed upon the Scheme which came into force on 19.10.1989 regarding of temporary status to casual workmen. It was not disputed even by the respondent that in fact the said Scheme was followed by Department of Telecommunication and in view of the judgement of the Hon'ble Apex Court in the case of Braj Kishore Vs. Union of India, it has been observed that the Scheme is fully applicable to all the casual labourer who have worked for a period of one year

irrespective of the cut off date i.e. 01.04.1985. Thus, it is strongly agued on behalf of the claimant that in view of above Scheme as well as judgement of the Hon'ble Apex Court, management was legally required to grant temporary status as per the above Scheme to the claimant herein.

14. Per contra, Shri Lokesh Sukhwani, A/R for the management, urged that documents in the present case relating to attendance of the workman have not been proved by the workman in accordance with law and as such no reliance can be placed upon such vague and fictitious documents. Secondly, the learned authorized representative of the management proceeded to argue that the workman was not engaged as a casual labourer in a legal manner and in view of the judgement of the Hon'ble Supreme Court in Uma Devi (2006) 4SCC I, their appointment/engagement was purely illegal being in violation of statutory principles. As such, he cannot be granted any permanent status. Therefore, there is no question of regularization of service of such workmen.

15. Before I proceed to consider the comparative merits of the submissions placed on behalf of either parties, it is pertinent to note here that during the course of arguments, it was not disputed that Department of Telecommunications had issued a circular dated 07.11.1999 and it was made applicable from 01.10.1999 as alleged in para 6 of the statement of claim and the same was applicable to casual labourers who were engaged prior to 01.04.1985. The said circular admittedly was held to be illegal by the Hon'ble Apex Court in Braj Kishore vs. Union of India wherein observations have been made that the above Scheme of casual workers would be applicable to all casual labourers who had continuously worked for a period of one year irrespective of the cut off date, i.e. 01.04.1985.

16. Now the moot question which requires determination in the present case is whether the claimant was directly engaged as casual labourer as alleged by him in the year 1986 under SDO Kashipur. In this regard, it is appropriate to refer to the pleadings as well as affidavit of the workman, Shri Rattan Lal Singh, filed as Ex.WW1/A wherein the workman has reiterated the stand taken in his statement of claim. Shri Rattan Lal Singh admitted that SDO Kashipur has issued certificate Ex.WW1/M1, which clearly shows that from August 1986 till May 1987, claimant herein, was working as casual labourer in Department of Telecommunications and the said certificate is signed by Sub Divisional Officer Kashipur, and denied that Ex.WW1/M1 is fake. He has also denied that he has not worked for 240 days with the management in any calendar year.

17. Management in order to rebut the case of the claimant, examined Shri R.P. Singh, SDO as MW1, whose affidavit is Ex.MW1/A, which is almost of the similar lines as the stand taken in the written statement. He has averred in the affidavit that the Department has imposed ban on recruitment/engagement of casual labourer *vide* circular

22.01.1988. He has also relied upon the instructions contained in the manual extract, Ex.MW1/2. Further stand of the management has been that the claimant has not worked for a period of 240 days in any calendar year and Shri Madan Chandra was posted as SDO(T), Kashipur during the period 01.03.1987 to 01.12.1987. In his cross examination, he has feigned ignorance whether at present claimant is working under the contractor. He has denied the suggestion that prior to December 2005, the claimant was working under the management. It is clear from the resume of evidence on record that the management has taken the plea that the claimant herein has not worked at any time directly under the management. However, evidence on record is crystal clear that the claimant, even in the year 1986 was employed as casual labourer by the Department of Telecommunications as is evident from perusal of certificate Ex.WW1/M1. Bare perusal of the above Certificate clearly shows that the claimant herein was employed as a casual labourer in August 1986 and upto May 1987, claimant here in worked for 280 days. Admittedly, Ex.WW1/M1 clearly shows that the claimant herein was working as casual labourer in Department of Telecommunications.

19. It was argued with much vehemence that the documents relied upon by the claimant are fake and forged; as such they cannot be relied upon. There are other documents filed by the claimant, which clearly shows that till 2005, the claimant herein was directly working with Department of Telecommunications and there is nothing on record to suggest that these documents are fake or fictitious. *Prime facie*, examination of all these documents clearly shows that they are issued by Bharat Sanchar Nigam Limited and the name of Shri Rattan Lal Singh, the claimant herein finds mention in all the documents alongwith period of his employment. These documents also prove that the claimant has worked with Bharat Sanchar Nigam Limited. It is admitted case of parties that Department of Telecommunications stood converted to a Government Company, i.e. Bharat Sanchar Nigam Ltd. Thus, there is no merit in the contention of the management that documents cannot be taken into consideration being photocopies of the original as no objection was raised when these documents were tendered in evidence or exhibited by the claimant. No doubt, it is settled proposition of law that mere production and marking of documents as exhibit by the court cannot be held to be due proof of its contents. Its execution is to be proved by admissible evidence. Situation is, however, different when documents are produced and their genuineness is not disputed by the opposite party when they are tendered in evidence or when they are marked as exhibits. I am fortified in my opinion from the case of RVE Venkatachala Gounder versus A.V.V.P. Temples (AIR 2003 SC 4548). This was a case where the Hon'ble Apex Court dealt at length with the question of mode of proof and admissibility of documents and after considering entire case law on the subject, it was held as under:

"An objection to the admissibility of the document should be raised before such endorsement is made and the Court is obliged to form its opinion on the question of admissibility and express the same on which opinion would depend the document being endorsed as admitted or not admitted in Evidence. In the latter case, the document may be returned by the Court to the person from whose custody it was produced.

Ordinarily an objection to the admissibility of evidence should be taken when it is tendered and not subsequently. The objections as to admissibility of documents in evidence may be classified into two classes:- (i) an objection that the document which is sought to be proved is itself inadmissible in evidence; and (ii) where the objection does not dispute the admissibility of the document in evidence but is directed towards the mode of proof alleging the same to be irregular or insufficient. In the first case, merely because a document has been marked as 'an exhibit', an objection as to its admissibility is not excluded and is available to be raised even at a later stage or even in appeal or revision. In the latter case, the objection should be taken before the evidence is tendered and once the document has been admitted in evidence as marked as on exhibit, the objection that it would not have been admitted in evidence or that the mode adopted for proving the document is irregular cannot be allowed to be raised at any stage subsequent to the marking of the document as an exhibit."

20. The same view appears to have been taken in the case of *Narbada Devi Gupta versus Birendra Kumar Jaiswal* (AIR 2004 SC 175). In view of the ratio of law discussed above, it is clear in the present case that no objection was taken by the management (i.e. opposite party) when workman while appearing as WW1 tendered photocopy in evidence. Now, it is too late in the day to urge that the above document, original of which is obviously in possession of the management, has not been proved in accordance with law. Since at no point of time validity of these documents was questioned during the course of evidence, as such, contention of the management deserves to be rejected.

21. In view of the above evidence on record, it is held that claimant herein was working as casual labourer during the period 1987 to 2005 in the establishment of the management.

22. Now, the residual question is whether the claimant has worked for 240 days in a calendar year so as to get the benefit of the Scheme framed by Department of Telecommunications regarding grant of temporary status to the casual labourers. Sub-clause (1) of clause 5 of the above Scheme clearly provides that temporary status



would be conferred on all casual labourers currently employed and have rendered continuous service for one year in a calendar year. Such casual labourer will be designated as temporary mazdoor. Clause 2 further provides that said conferment of temporary status would be without reference to the creation/availability of regular Group D posts.

23. As discussed above, perusal of certificate Ex.WW1/M1 clearly shows that the claimant herein worked for more than 240 days in a calendar year. In fact, combined reading of the documents shows that claimant herein from March 1987 till date was in the employment of Department of Telecommunications/BSNL. Thus the workman herein is liable to be given status of temporary mazdoor in view of the Scheme for grant of temporary status.

24. It was argued with much vehemence by Shri Lokesh Sukhwani, learned authorized representative of the management, that most of the workman who are alleging themselves to be employees of the management were in fact never employed in accordance with any rules or regulations nor there is any specific order regarding employment of such workmen. Appointment of such workman, in the contention of the authorized representative of the management, is backdoor appointment and as such, in view of the ratio of judgment of Hon'ble Apex Court in *Secretary State of Karnataka vs Uma Devi* (2006) 4 SC 1, claimant herein cannot claim to be regularized in derogation of the rules, being back door entry in as much as their appointment is totally illegal.

25. I have carefully gone through the ratio of the above judgment and this plea of the management even did not find favour with the Hon'ble Supreme Court. There are observations that decision of Constitution Bench in *Uma Devi* case is not attracted or applicable when the question simply is regularization or mere grant of temporary status to daily or casual labourers. Tribunal cannot ignore that the claimant herein is doing the same kind of job and performing same work which is being performed by workers who are currently employed. The work in question not contingent in nature and the same is perennial and still the management is employing such workers, sometimes through contractors for the performance of needful job.

26. During the course of arguments, reliance was also placed upto judgement of Hon'ble Apex Court in *Maharashtra State Road Transport and another vs. Casteribe Rajya Parivahan Karamchari Sanghatana* (2009) 8 SCC 556. In the said case, Hon'ble Apex Court dealt with the question of unfair labour practice and specific reference was made to *Uma Devi Case* (2006) 4 SCC and it was held as under:

“34. It is true that the case of *Dharwad District PWD Literate Daily Wage Employees Association vs. State of Karnataka* (1990 2 SCC 396) arising out of industrial

adjudication has been considered in *Umadevi* (3) (2006(4) SCC1 and that decision has been held to be not laying down the correct law but a careful and complete reading of decision in *Umadevi* (3) leaves no manner of doubt that what this Court was concerned in *Umadevi* (3) was the exercise of power by the High Courts under Article 226 and this Court under Article 32 of the Constitution of India in the matters of public employment where the employees have been engaged as contractual, temporary or casual workers not based on proper selection as recognized by the rules or procedure and yet orders of their regularization and conferring them status of permanency have been passed.

35. *Umadevi* (3) is an authoritative pronouncement for the proposition that Supreme Court (Article 32) and High Courts (Article 226) should not issue directions of absorption, regularization or permanent continuance of temporary, contractual, casual, daily wage or ad-hoc employees unless the recruitment itself was made regularly in terms of constitutional scheme.

36. *Umadevi* (3) does not denude the Industrial and Labour Courts of their statutory power under Section 30 read with Section 32 of MRTU & PULP Act to order permanency of the workers who have been victim of unfair labour practice on the part of the employer under item 6 of Schedule IV where the posts on which they have been working exists. *Umadevi* (3) cannot be held to have overridden the powers of Industrial and Labour Courts in passing appropriate order under Section 30 of MRTU & PULP Act, once unfair labour practice on the part of the employer under item 6 of Schedule IV is established."

27. In *UP State Electricity Board vs. Pooran Chandra Pandey and Others* 2007(12) Scale 304, the Hon'ble Apex Court has held that the judgement in *Uma Devi* case cannot be applied mechanically without seeing the facts of a particular case. There are clear observations in the above judgement that ratio of *Uma Devi* (Supra) is not attracted to a case where simply temporary status or regularization has been sought in pursuance of Article 14 of the Constitution.

28. Yet, in another judgement, Hon'ble Apex Court, in the case of *Ajaypal Singh Vs. Haryana Warehousing Corporation* (2015) 6 SCC 321 dealt with almost similar question as to whether a workman employed in an industry who had completed more than 240 days of service in preceding calendar year, but his services were terminated with effect from 01.07.1988 without one month's notice or pay in lieu thereof in terms of Section 25F of the ID Act. On a reference to the Labour Court, it was held by the Labour Tribunal that termination of services of the worker was illegal and he was entitled to be reinstated with full back



wages. This award was challenged by the employer before the High Court in a writ petition and the High Court held that appointment of the worker was made in violation of Article 14 and Article 16 of the Constitution of India. Therefore, the workman was held not to be entitled to be reinstated. However, compensation was awarded to the workman. Aforesaid order was affirmed by Division Bench of the High Court. When the matter was taken by the workman to the Hon'ble Apex Court, plea of irregular or illegal appointment being in violation of article 14 and Article 16 of the Constitution was out-rightly rejected by the Hon'ble Apex Court by observing as under:

"When no such plea is taken by the employer in the order of retrenchment that the workman was appointed in violation of Articles 14 and 16 of the Constitution or in violation of any statutory rule or his appointment was a back door appointment, while granting relief, it is not open to the employer of a public industrial establishment and undertaking to take a plea that initial appointment of such workman was made in violation of Articles 14 and 16 or the workman was a back door appointee, in absence of a reference made by the appropriate Government for determination of question whether the initial appointment of the workman was in violation of Articles 14 and 16 or statutory rules. Only if such reference is made, a workman is required to lead evidence to prove that he was appointed by following procedure prescribed under the Rules and his initial appointment was legal."

29. Yet, in another case, *i.e.* ONGC vs. Petroleum Coal Labour Union (2015) Lab. IC 2483, Hon'ble Apex Court dealt with the question of non-regularization of the workmen who were alleged to be not recruited in accordance with the rules/regulations or by following due procedure under the law. In the said case also, the workmen were initially employed as security guards and security supervisors through a contractor. Later on, due to settlement between the workers union and the management, their services were utilized by ONGC through Co-operative Society to meet its security requirements. Later on, due to decision taken by the Corporation, security work was entrusted to Central Industrial Security Force (CISF) to protect their installation. Matter was taken by the employees union before the High Court on the grounds that this amounts to breach of settlement already arrived at between the parties and Corporation took the stand that workers were not entitled for retention and regularization as their recruitment was not as per norms. Though the employees union lost the case before Single Judge of the Hon'ble High Court, but later on when the matter went to Supreme Court, it was held as under:

"Even though due procedure was not followed by the Corporation for the appointment of the concerned workmen in the post of 'ward and watch security,

this does not disentitle them of their right to seek regularization of their services by the Corporation under the provisions of the Certified Standing Orders, after they have rendered more than 240 days of service in a calendar year from the date of the memorandum of appointment issued to each one of the concerned workmen in the year 1988. The alleged "policy decision" to appoint CISF personnel to the security post is on deputation basis and cannot be called appointment per se. Whereas, the concerned workmen have acquired their right to be regularized under the provision of Clause 2(ii) of the 'Certified Standing Orders.

Further, the concerned workmen have clearly completed more than 240 days of services subsequent to the memorandum of appointment issued by the Corporation in the year 1988 in a period of twelve calendar months, therefore, they are entitled for regularization of their services into permanent posts of the Corporation as per the Act as well as the Certified Standing Orders of the Corporation."

30. In the case in hand also, it is not the case of the management that initial appointment of the workman herein is in violation of Article 14 and 16 of the Constitution of India. Rather management has come with the plea that the workman herein was never employed in the year 1987 and was directly working under the contractor.

31. There is no merit in the contention of the management that workman herein is an employee of the contractor. There is nothing on record to suggest as to who was the contractor to whom the management had given the work in question. It was incumbent upon the management to have brought on record all the relevant documents, which show that contractor was awarded contract for employment of casual labourers who were otherwise working for the benefit of the management. Even name of such contractor has not been disclosed by the management. Accordingly, it is held workman herein is/was in the employment of the management.

32. Since this Tribunal has already observed that the workman herein was working under the Department of Telecommunication/Bharat Sanchar Nigam Ltd. right from the year 1987 till end of 2005, as such workman is held to be in the employment of the respondent management. As a sequel to the above, workman herein is also entitled to be given temporary status in view of the Scheme of Grant of Temporary Status and Regularization Scheme.

33. So far as question of regularization of service of the workman is concerned, it is clear from record that no rules or regularization or standing order governing the procedure to be followed for regularization of such temporary employees have been filed by either of the parties. Moreover, law is very clear that grant of regularization is not a matter of course and it depends on the facts and

circumstances as well as rules and regulations governing such matters. Equally settled is the law that there cannot be any regularization dehors the rules

34. Consequently, it is held that the workman herein would be duly considered for regularization if the rules or regulations applicable in this regard entitle the workman for such regularization. If similarly situated employees working in the management of the respondent, have been regularized, in that eventuality, workman herein would also be duly considered for such absorption or regularization. Hence, issue is answered accordingly. Hence, an award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated: July 28, 2015

A.C. DOGRA, Presiding Officer

#### ANNEXURE

**IN THE COURT OF SHRI AVTAR CHAND DOGRA,  
PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT  
NO. 1, KARKARDOOMA COURT  
COMPLEX, DELHI**

**ID No. 4/2011**

Shri Bhoop Singh  
S/o Shri Shyam Lal,  
Vill. Maheshpura, Post Bajpur,  
Udhamsingh Nagar

.....Workman

#### Versus

1. The Chief General Manager,  
Bharat Sanchar Nigam Limited,  
Uttarakhand Circle,  
Dehradun
2. The Telecom District Manager  
Bharat Sanchar Nigam Limited,  
Haldwani. ....Management

#### AWARD

Background facts giving rise to the reference are that the claimant, Shri Bhoop Singh was engaged as casual labourer on 01.03.1987 under Sub-Divisional Officer, Kashipur in the Department of Telecommunication, Rudrapur, Nainital, Uttar Pradesh. Shri Joshi was the SDO of the workman at the time of his initial appointment, who has also issued certificate to the claimant showing the number of days the claimant has worked and the same is Annexure B.

2. Thereafter, the claimant continued to work with the Department of Telecommunication under SDO, Kedar Rai from 01.01.2002 to 01.12.2002 and certificate is Annexure B. Similarly the claimant worked from 01.01.2003 to 01.12.2003

under SDO Kedar Rai for a total of 263 days as is clear from Annexure A 3.

3. After the year 2005, the claimant has been paid through ACA-17 slip by SDO Kedar Rai. Thus, the workman had been working continuously in the Department of Telecommunications and thereafter the department of Telecommunication framed the scheme of grant of temporary status to the casual labourers known as 'Grant of Temporary Status and Regularization Scheme', which came into effect on 01.10.1989. Clause 5 of the said Scheme is as under:

#### 5. Temporary status:—

- (i) Temporary status would be conferred to all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).
- (ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts.
- (iii) Conferment of temporary status on a casual labourer would not involve and change in his duties and responsibilities. the engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment until/territorial circle on the basis of availability of work.
- (iv) Such casual labourers who acquire temporary status will not, however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts.

4. After coming into force of the above scheme, Department of Telecommunication issued circular dated 07.11.1989 stating that the said Scheme would be made applicable to those casual labourer who were engaged prior to 01.04.1985. However, the said circular was held to be illegal by the Hon'ble Supreme Court in the matter of Braj Kishore Vs. Union of India, wherein it has been held that the above scheme would be applicable to all those casual labourer who had continuously worked for a period of one year irrespective of the cut off date, i.e. 10.04.1985. Since the claimant was working in the Department of Telecommunication continuously, as such, he was entitled to the benefits of the Scheme discussed above. It is also clear that as per the above scheme, a person who has continuously worked for 10 years from the date of engagement was entitled to be regularized and applying the grant of temporary status scheme several other casual workers were permanently regularized who have served for 10 years from the date of their original engagement.

5. It is also clear from the statement of claim that in the year 2000, assets and liabilities of Department of

Telecommunication were transferred to a Government Company known as Bharat Sanchar Nigam Ltd. and all the officers and employees of all cadres became employees of BSNL. Management with a view to deny legitimate rights of the claimants in the year 2006 placed the workers under the Contractor and at that time Shri R.P.Singh was the SDO under whom the contractor started working. Being aggrieved, the workers approached the labour authorities and ultimately dispute for regularization of such workers were referred to the Labour Court in Delhi. Since the claimant have been working in the Department of Telecommunication for more than 20 years, as such he was to get benefit of the Scheme discussed above. He was entitled for grant of temporary status initially and thereafter was required to be regularized as regular Mazdoor.

6. Management was put to notice and on appearance filed written statement wherein Respondent No. 1 and 2 took preliminary objections *inter alia* of cause of action, workman not approaching the court with clean hands, malafide and concealing of material facts etc. It was also alleged that present reference is bad for non-joinder of necessary parties, since the workman has been working under the contractor who was required to be impleaded as a party. It is further alleged that in order to meet exigencies of the work, respondents have taken services of a contractor for providing work force on part-time basis on some dates. As such, engagement of casual workers do not confer upon any workman any automatic right of regularization. On merits, it has been denied that the claimant was engaged as casual labourer since 01.03.1987 on muster roll under Shri Joshi, SDO Kashipur. It is also denied that the claimant worked continuously with Department of Telecommunication under Kedar Rai, SDO. Claimant was not paid wages through ACA 17 slip by SDO Kedar Rai from 2005. Management also denied other material averments made in the statement of claim.

7. Since conciliation between the parties could not be arrived at when the matter was referred to the Regional Labour Commission, as such the Union Government under sub section 2A of Section 10 of the Industrial Disputes Act, 1947, made the following reference:

"Whether the demand of Shri Bhoop Singh, S/o Shri Shyam Lal, for reinstatement and regularization of his services with effect from 28.02.2006 in Bharat Sanchar Nigam Limited, who worked with them since last 20 years is valid and justified? If yes, what relief the workman is entitled to.?"

8. Claimant, herein, filed statement of claim as discussed above and on which written statement was filed by Respondent No. 1 and 2, i.e. the managements.

9. It is clear from order dated 17.03.2011 passed by my learned predecessor that no specific issues were framed. It was clarified that no other issue than those referred by the

appropriate Government under Section 10 of the ID Act for adjudication, is made out.

10. Claimant, in support of his case, examined himself as WW1 and adduced both oral as well as documentary evidence in support of the stand taken in the statement of claim. Similarly, the management examined Shri R.P. Singh as MW1 so as to rebut the case of the claimant.

11. I have heard Shri Rajinder Singh Palni, A/R for the claimant and Shri Lokesh Sukhwani, A/R for the management.

12. Shri Plani, appearing on behalf of the claimant, urged that the claimant herein was employed as casual labourer by the Department of Telecommunications from 01.03.1987 and in this regard, attention of the court was invited to Ex. WW1/9(Annexure P1), which is a certificate issued by Junior Telecom Officer Kashipur wherein month-wise details of attendance of the claimant herein has been mentioned. There is another certificate Ex. WW1/10 (Annexure P2) which also contains similar details and number of total working days of the claimant during the year 2002 as 324. There is another certificate Ex. WW1/11 which also contains details of attendance of the claimant herein for the year 2003 and total number of working days is 263. It is, further, clear from the affidavit Ex. WW1/A of the claimant Shri Bhoop Singh that he has tried to support all the material averments contained in the statement of claim in the said affidavit. Claimant was subjected to cross examination, but there is hardly anything to impeach his credit. Claimant has also made reference to photograph Ex. WW1/1 to Ex. WW1/8 in his statement. He has clarified in his cross examination that in his affidavit, he has inadvertently mentioned the name of Joshi as his SDO during March 1987 at Kashipur. Perusal of the certificate shows that the same is signed by Junior Telecom Officer and name of Shri Joshi admittedly does not find mention there, In fact, it is photocopy of the Original and the said photocopy has been attested by Veterinary Officer, Baspur Distt. US Nagar.

13. During the course of arguments, much reliance was placed upon the Scheme which came into force on 19.10.1989 regarding of temporary status to casual workmen, It was not disputed even by the respondent that in fact the said Scheme was followed by Department of Telecommunication and in view of the judgement of the Hon'ble Apex Court in the case of Braj Kishore Vs. Union of India, it has been observed that the Scheme is fully applicable to all the casual labourer who have worked for a period of one year irrespective of the cut off date, i.e. 01.04.1985. Thus, it is strongly agued on behalf of the claimant that in view of the above Scheme as well as judgment of the Hon'ble Apex Court, management was legally required to grant temporary status as per the above Scheme to the claimant herein.

14. Per contra, Shri Lokesh Sukhwani, A/R for the management, urged that documents in the present case

relating to attendance of the workman Ex. WW1/9 have not been proved by the workman in accordance with law and as such no reliance can be placed upon such vague and fictitious documents. Similarly, Shri Joshi was not the SDO at the relevant time as mentioned in the affidavit of the workman, which fact the workman has admitted in his statement while appearing as WW1. Secondly, the learned authorized representative of the management proceeded to argue that the workman was not engaged as a casual labourer in a legal manner and in view of the judgement of the Hon'ble Supreme Court in *Uma Devi* (2006) 4 SCC I, their appointment/engagement was purely illegal being in violation of Statutory principles. As such, he cannot be granted any permanent status. Therefore, there is no question of regularization of service of such workman.

15. Before I proceed to consider the comparative merits of the submissions placed on behalf of either parties, it is pertinent to note here that during the course of arguments, it was not disputed that Department of Telecommunications had issued a circular dated 07.11.1999 and it was made applicable from 01.10.1999 as alleged in para 6 of the statement of claim and the same was applicable to casual labourers who were engaged prior to 01.04.1985. the said circular admittedly was held to be illegal by the Hon'ble Apex Court in *Braj Kishore vs. Union of India* wherein observations have been made that the above Scheme of casual workers would be applicable to all casual labourers who had continuously worked for a period of one year irrespective of the cut off date, i.e. 01.04.1985.

16. Now the moot question which requires determination in the present case is whether the claimant was directly engaged as casual labourer as alleged by him in the year 1987 under SDO Kashipur. In this regard, it is appropriate to refer to the pleadings as well as affidavit of the workman, Shri Bhoop Singh, filed as Ex. WW1/A wherein the workman has reiterated the stand taken in his statement of claim. In his cross examination, the claimant has admitted that he has studied only upto 6th class and the claim statement as well as his affidavit, Ex. WW1/A, bears his signatures. He does not understand English. He has further admitted that in his affidavit it is mentioned that Shri Joshi was has SDO in March 1987. However, he has admitted this mistake and admitted that Shri Joshi has issued certificate Ex. WW1/9, which clearly shows that from March 1987 till December 1987, claimant herein, was working as casual labourer in Department of Telecommunications and the said certificate is signed by Sub Divisional Officer Kashipur and verified by Junior Telecom Officer, Kashipur. He has denied that Ex. WW1/9 is fake. In his cross examination (dated 09.04.2012), claimant has specifically denied that engagement of casual workers was stopped in the year 1980 by the management. Rather, management has engaged casual labourers upto 1989. Again said, upto 1981. He has also denied certificate Ex. WW1/M 1 is false. He further denied that he has not worked for 240 days with the management in any calendar year.

17. Management in order to rebut the case of the claimant, examined Shri R.P. Singh, SDO as MW1, whose affidavit is Ex. MW1/A, which is almost on the similar lines as the stand taken in the written statement. He has averred in the affidavit that the Department has imposed ban on recruitment/engagement of casual labourer vide circular 22.01.1988. He has also relied upon the instructions contained in the manual extract, Ex, MW1/2. Further stand of the management has been that the claimant has not worked for a period of 240 days in any calendar year and Shri Madan Chandra was posted as SDO(T), Kashipur during the period 01.03.1987 to 1.12.1987. He has categorically stated that the claimant has not worked under him during the period from 01.03.1987 to 01.12.1987 for 270 days. In his cross examination, he has feigned ignorance whether at present claimant is working under the contractor. He has denied the suggestion that prior to December 2005, the claimant was working under the management. He has admitted that Ex. WW1/13 to Ex. WW1/24 were supplied to the workman under the RTI Act. He was further made a vital admission that name of Shri Bhoop Singh is mentioned in the above document alongwith period of his engagement. He has further admitted Ex. WW1/12 was issued by the management and he has not carefully perused most of these documents earlier.

18. It is clear from the resume of evidence on record that the management has taken the plea that the claimant herein has not worked at any time directly under the management. However, evidence on record is crystal clear that the claimant, even in the year 1987 was employed as casual laborer by the Department of Telecommunications as is evident from perusal of certificate Ex.WW1/1 and Ex. WW1/9. Bare perusal of the above certificate clearly shows that the claimant herein was employed as a casual labourer in March 1987 and in the said month he worked for 22 days, in the month of April 1987 for 26 days. Further in 1987, claimant herein worked for 270 days from March 1987 to December 1987. No doubt, the claimant herein has wrongly mentioned the name of SDO as Shri Joshi, in his affidavit, to be his SDO in March 1987, but he has clarified that the same has been mentioned inadvertently and the mistake is that of his advocate He has admitted in his cross examination dated 02.11.2011 that certificate Ex. WW1/9 has been issued by Shri Madan Chandra. To my mind, merely mentioning of a wrong name of employer or SDO cannot be held to fatal to the case of the claimant, who is semi-literate. It has come in evidence that the claimant that he has studied only upto the 6th standard. As such, mere wrong mention of the name of the employer at a particular point of time would not mean that the claimant has set up a wrong claim. Admittedly, Ex.WW1/9, for that matter even Ex. WW1/1 clearly shows that the claimant herein was working as casual labourer in Department of Telecommunications.

19. It was argued with much vehemence that the documents relied upon by that claimant are fake and



forged; as such they cannot be relied upon. There are other documents filed by the claimant, which clearly shows that till 2005, the claimant herein was directly working with Department of Telecommunications as there is nothing on record to suggest that these documents are fake or fictitious. It is pertinent to note that SDO, Shri R.P. Singh, appearing as MW1, has clearly deposed in his cross examination that documents Ex. WW1/13 to Ex. WW1/24 was supplied to the claimant under the RTI Act. He has further, made a vital admission that the name of the claimant, Shri Bhoop Singh, finds mention in all these documents alongwith the period of his engagement. In view of the clear cut admission made by Shri R.P. Singh, MW1, in his cross examination, regarding supply of the above documents, it does not lie in the mouth of the management to say that the documents in question are fake or fictitious. Even, prima facie, examination of all these documents clearly shows that they are issued by Bharat Sanchar Nigam Limited and the same of Shri Bhoop Singh, the claimant herein finds mention in all the documents alongwith period of his employment. These documents also prove that the claimant has worked with Bharat Sanchar Nigam Limited till 2005. It is admitted case of parties that Department of Telecommunications stood converted to a Government Company, i.e. Bharat Sanchar Nigam Ltd. Thus, there is no merit in the contention of the management that documents Ex. WW1/9 to Ex WW1/24 cannot be taken into consideration being photocopies of the original as no objection was raised when these documents were tendered in evidence or exhibited by the claimant. As discussed, documents Ex. WW1/13 to Ex. WW1/24 were supplied to the workman under the RTI Act. Therefore, there is no question of these documents being fake or fictitious. No doubt, it is settled proposition of law that mere production and marking of documents as exhibit by the court cannot be held to be due proof of its contents. Its execution is to be proved by admissible evidence. Situation is, however, different when documents are produced and their genuineness is not disputed by the opposite party when they are tendered in evidence or when they are marked as exhibits. I am fortified in my opinion from the case of RVE Venkatachala Gounder versus A.V.V.P. Temples (AIR 2003 SC 4548). This was a case where the Hon'ble Apex Court dealt at length with the question of mode of proof and admissibility of documents and after considering entire case law on the subject, it was held as under:

"An objection to the admissibility of the document should be raised before such endorsement is made and the Court is obliged to form its opinion on the question of admissibility and express the same on which opinion would depend the document being endorsed as admitted or not admitted in evidence. In the latter case, the document may be returned by the Court to the person from whose custody it was produced.

Ordinarily an objection to the admissibility of evidence should be taken when it is tendered and not subsequently. The objections as to admissibility of documents in evidence may be classified into two classes:-

(i) an objection that the document which is sought to be proved is itself inadmissible in evidence; and (ii) where the objection does not dispute the admissibility of the document in evidence but is directed towards the mode of proof alleging the same to be irregular or insufficient. In the first case, merely because a document has been marked as 'an exhibit', an objection as to its admissibility is not excluded and is available to be raised even at a later stage or even in appeal or revision. In the latter case, the objection should be taken before the evidence is tendered and once the document has been admitted in evidence and marked as an exhibit, the objection that it should not have been admitted in evidence or that the mode adopted for proving the documents is irregular cannot be allowed to be raised at any stage subsequent to the marking of the document as an exhibit.'

20. The same view appears to have been taken in the case of *Narbada Devi Gupta versus Birendra Kumar Jaiswal* (AIR 2004 SC 175). In view of the ratio of law discussed above, it is clear in the present case that no objection was taken by the management (i.e. opposite party) when workman while appearing as WW1 tendered photocopy in evidence. Now, it is too late in the day to urge that the above document, original of which is obviously in possession of the management, has not been proved in accordance with law. Since at no point of time validity of these document was questioned during the course of evidence, as such, contention of the management deserves to be rejected.

21. In view of the above evidence on record, it is held that claimant herein was working as casual labourer during the period 1987 to 2005 in the establishment of the management.

22. Now, the residual question is whether the claimant has worked for 240 days in a calendar year so as to get the benefit of the Scheme framed by Department of Telecommunications regarding grant of temporary status to the casual labourers. Sub clause 1 of Clause 5 of the above Scheme clearly provides that temporary status would be conferred on all casual labourers currently employed and have rendered continuous service for one year in a calendar year.

Such casual labourer will be designated as temporary mazdoor. Clause 2 further provides that said conferment of temporary status would be without reference to the creation/availability of regular Group D posts.

23. As discussed above, persual of certificate Ex WW1/1 and Ex. WW1/9 as well as documents Ex. WW1/10 to Ex. WW1/24 clearly shows that the claimant herein worked for more than 240 days in each of the calendar years. In fact, combined reading of these documents shows that claimant herein from March 1987 till 2005 was in the employment of Department of Telecommunications/ BSNL. thus, the workman herein is liable to be given status of temporary mazdoor in view of the Scheme for grant of temporary status.

24. It was argued with much vehemence by Shri Lokesh Sukhwani, learned authorized representative of the management that most of the workman who are alleging themselves to be employees of the management were in fact never employed in accordance with any rules of regulations nor there is any specific order regarding employment of such workmen. Appointment of such workman, in the contention of the authorized representative of the management, is backdoor appointment and as such, in view of the ratio of judgement of Hon'ble Apex court in Secretary State of Karnataka vs Uma Devi (2006) 4 SC1, claimant herein cannot claim to be regularized in derogation of the rules, being back door entry in as much as their appointment is totally illegal.

25. I have carefully gone through the ratio of the above judgement and this plea of the management even did not find favour with the Hon'ble Supreme Court. There are observations that decision of Constitution Bench in Uma Devi case is not attracted or applicable when the question simply is regularization or mere grant of temporary status to daily or casual labourers. Tribunal cannot ignore that the claimant herein is doing the same kind of job and performing same work which is being performed by workers who are currently employed. The work in question not contingent in nature and the same is perennial and still the management is employing such workers, sometimes through contractors for the performance of needful job.

26. During the course of arguments, reliance was also placed upon judgement of Hon'ble Apex Court in Maharashtra State Road Transport and another Vs. Casteribe Rajya Parivahan Karamchari Sanghatana (2009) 8 SCC 556. In the said case, Hon'ble Apex Court dealt with the question of unfair labour practice and specific reference was made to Uma Devi Case (2006) 4 SCC and it was held as under:

"34. It is true that the case of Dharwad District PWD Literate Daily Wage Employees Association Vs. State of Karnataka (1990 2SCC 396) arising out of industrial adjudication has considered in Umadevi (3) (2006) (4) SCC1) and the decision has been held to be not laying down the correct law but a careful and complete reading of decision in Umadevi (3) leaves no manner of doubt that what this Court was concerned in Umadevi (3) was the exercise of power by the High Courts under Article 226 and this Court under Article 32 of the Constitution of India in the matters of public employment where the

employees have been engaged as contractual, temporary or casual workers not based on proper selection as recognized by the rule of procedure and yet orders of their regularization and conferring them status of permanency have been passed.

35. Umadevi (3) is an authoritative pronouncement for the proposition that Supreme Court (Article 32) and High courts (Article 226) should not issue directions of absorption, regularization or permanent continuance of temporary, contractual, casual, daily wages or ad-hoc employees unless the recruitment itself was made regularly in terms of constitutional scheme.

36. Umadevi (3) does not denude the Industrial and Labour Courts of their statutory power under Section 30 read with Section 32 of MRTU & PULP Act to order permanency of the workers who have been victim of unfair labour practice on the part of the employer under item 6 of Schedule IV where the posts on which they have been working exists. Umadevi (3) cannot be held to have overridden the powers of Industrial and Labour Courts in passing appropriate order under Section 30 of MRTU & PULP Act, once unfair labour practice on the part of the employer under item 6 of Schedule IV is established."

27. In UP State Electricity Board Vs. Pooran Chandra Pandey and Others 2007 (12) Scale 304, the Hon'ble Apex Court has held that the judgement in Uma Devi case cannot be applied mechanically without seeing the facts of a particular case. There are clear observations in the above judgement that ratio of Uma Devi (supra) is not attracted to a case where simply temporary status or regularization has been sought in pursuance of Article 14 of the Constitution.

28. Yet, in another judgement, Hon'ble Apex Court, in the case of Ajaypal Singh Vs. Haryana Warehousing Corporation (2015) 6 SCC 321 dealt with almost similar question as to whether a workman employed in an industry who had completed more than 240 days of service in preceding calendar year, but his services were terminated with effect from 01.07.1988 without one month's notice or pay in lieu thereof in terms of Section 25F of the ID Act. On a reference to the Labour Court, it was held by the Labour Tribunal that termination of services of the worker was illegal and he was entitled to be reinstated with full back wages. This award was challenged by the employer before the High Court in a writ petition and the High Court held that appointment of the worker was made in violation of Article 14 and Article 16 of the Constitution of India. Therefore, the workman was held not to be entitled to be reinstated. However, compensation was awarded to the workman. Aforesaid order was affirmed by Division Bench of the High Court. When the matter was taken by the workman to the Hon'ble Apex Court, plea of irregular or illegal appointment being in violation of Article 14 and

Article 16 of the Constitution was out-rightly rejected by the Hon'ble Apex court by observing as under:—

"When no such plea is taken by the employer in the order of retrenchment that the workman was appointed in violation of Articles 14 and 16 of the Constitution or in violation of any statutory rule or his appointment was a back door appointment, while granting relief, it is not open to the employer of a public industrial establishment and undertaking to take a plea that initial appointment of such workman was made in violation of Articles 14 and 16 or the workman was a back door appointee, in absence of a reference made by the appropriate Government for determination of question whether the initial appointment of the workman was in violation of Articles 14 and 16 or statutory rules. Only if such reference is made, a workman is required to lead evidence to prove that he was appointed by following procedure prescribed under the Rules and his initial appointment was legal."

29. Yet, in another case, *i.e* ONGC Vs. Petroleum Coal Labour Union (2015) Lab. IC 2483, Hon'ble Apex Court dealt with the question of non-regularization of the workmen who were alleged to be not recruited in accordance with the rules/regulations or by following due procedure under the law. In the said case also the workmen were initially employed as security guards and security supervisors through a contractor. Later on, due to settlement between the workers union and the management, their services were utilized by ONGC through Co-operative society to meet its security requirements. Later on, due to decision taken by the Corporation, security work was entrusted to Central Industrial Security Force (CISF) to protect their installation. Matter was taken by the employees union before the High Court on the grounds that this amounts to breach of settlement already arrived at between the parties and Corporation took the stand the workers were not entitled for retention and regularization as their recruitment was not as per norms. Though the employees union lost the case before Single Judge of the Hon'ble High Court, but later on when the matter went to Supreme court, it was held as under:

'Even though due procedure was not followed by the Corporation for the appointment of the concerned workmen in the post of ward and watch security this does not disentitle them of their right to seek regularization of their services by the Corporation under the provisions of the Certified Standing Orders, after they have rendered more than 240 days of service in a calendar year from the date of the memorandum of appointment issued to each one of the concerned workmen in the year 1988. The alleged "policy decision" to appoint CISF personnel to the security post is on deputation basis and cannot be called appointment per se. Whereas, the concerned workmen have acquired

their right to be regularized under the provision of Clause 2 (ii) of the 'Certified Standing Orders.

Further, the concerned workmen have clearly completed more than 240 days of services subsequent to the memorandum of appointment issued by the Corporation in the year 1988 in a period of twelve calendar months, therefore, they are entitled for regularization of their services into permanent posts of the Corporation as per the Act as well as the Certified Standing Orders of the Corporation."

30. In the case in hand also, it is not the case of the management that initial appointment of the workman herein is in violation of Article 14 and 16 of the Constitution of India. Rather management has come with the plea that the workman herein was never employed in the year 1987 and was directly working under the contractor.

31. There is no merit in the contention of the management that workman herein is an employee of the contractor. There is nothing on record to suggest as to who was the contractor to whom the management had given the work in question. It was incumbent upon the management to have brought on record all the relevant documents, which show that contractor was awarded contract for employment of casual labourers who were otherwise working for the benefit of the management. Even name of such contractor has not been disclosed by the management. Accordingly, it is held workman herein is/was in the employment of the management.

32. Since this Tribunal has already observed that the workman herein was working under the Department of Telecommunication/Bharat Sanchar Nigam Ltd. right from the year 1987 till the end of 2005, as such workman is held to be in the employment of the respondent management. As a sequel to the above, workman herein is also entitled to be given temporary status in view of the Scheme of 'Grant of Temporary Status and Regularization Scheme.

33. So far as question of regularisation of service of the workman is concerned, it is clear from record that no rules or regularization or standing order governing the procedure to be followed for regularization of such temporary employees have been filed by either of the parties. Moreover, law is very clear that grant of regularization is not a matter of course and it depends on the facts and circumstances as well as rules and regulations governing such matters. Equally settled is the law that there cannot be any regularization dehors the rules.

34. Consequently, it is held that the workman herein would be duly considered for regularization if the rules or regulations applicable in this regard entitle the workman for such regularization. If similarly situated employees working in the management of the respondent, have been regularized, in that eventuality, workman here would also be duly considered for such absorption or regularization. Hence, issue is answered accordingly. Hence, an award is



accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA, Presiding Officer

Dated: July 28, 2015

#### ANNEXURE

**IN THE COURT OF SHRI AVTAR CHAND DOGRA,  
PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT  
NO. 1, KARKARDOOMA COURT COMPLEX, DELHI**

**ID No 5/2011**

Shri Jeevan Singh

S/o Shri Ram Singh

Vill. Peiga Post Mahukheraganj,

Kashipur.

Udhamsingh Nagar

...Workman

#### Versus

1. The Chief General Manager,  
Bharat Sanchar Nigam Limited,  
Uttarakhand Circle,  
Dehradun

2. The Telecom District Manager  
Bharat Sanchar Nigam Limited,  
Haldwani

...Management

#### AWARD

Background facts giving rise to the reference are that the claimant, Shri Jeevan Singh was engaged as casual labourer on 01.01.1987 under Sub Divisional Officer, Kashipur in the Department of Telecommunication, Rudrapur, Nainital, Uttar Pradesh. Shri Madan Chandra was the SDO of the workman at the time of his initial appointment, who has also issued certificate to the claimant showing the number of days the claimant has worked and the same is Annexure P-1.

2. Thereafter, the claimant continued to work with the Department of Telecommunication under SDO, Kashipur from 24.10.1987 to 01.08.1988 and certificate is Annexure P2. Similarly the claimant worked from 01.02.1989 to 01.05.1990 under SDO Kashipur for a total of 447 days.

3. After the year 2005, the claimant has been paid through ACA-17 slip by SDO Kedar Rai. Thus, the workman had been working continuously in the Department of Telecommunications and thereafter the department of Telecommunication framed the scheme of grant of temporary status to the casual labourers known as 'Grant of Temporary Status and Regularization Scheme', which came into effect on 01.10.1989. Clause 5 of the said Scheme is as under:

5. Temporary status:—

- (i) Temporary status would be conferred to all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).
- (ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts.
- (iii) Conferment of temporary status on a casual labourer would not involve and change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment until/territorial circle on the basis of availability of work.
- (iv) Such casual labourers who acquire temporary status will not, however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts.

4. After coming into force of the above scheme, Department of Telecommunication issued circular dated 07.11.1989 stating that the said Scheme would be made applicable to those casual labourer who were engaged prior to 01.04.1985. However, the said circular was held to be illegal by the Hon'ble Supreme Court in the matter of Braj Kishore Vs. Union of India, wherein it has been held that the above scheme would be applicable to all those casual labourer who had continuously worked for a period of one year irrespective of the cut off date, i.e. 10.04.1985. Since the claimant was working in the Department of Telecommunication continuously, as such, he was entitled to the benefits of the Scheme discussed above. It is also clear that as per the above Scheme, a person who has continuously worked for 10 years from the date of engagement was entitled to be regularized and applying the grant of temporary status scheme several other casual workers were permanently regularized who have served for 10 years from the date of their original engagement.

5. It is also clear from the statement of claim that in the year 2000, assets and liabilities of Department of Telecommunication were transferred to a Government Company known as Bharat Sanchar Nigam Ltd. and all the officers and employees of all cadres became employees of BSNL. Management, with a view to deny legitimate rights of the claimants in the year 2006 placed the workers under the Contractor and at that time Shri R.P. Singh was the SDO under whom the contractor started working. Being aggrieved, the workers approached the labour authorities and ultimately dispute for regularization of such workers were referred to the Labour Court in Delhi. Since the claimant have been working in the Department of



Telecommunication for more than 20 years, as such he was to get benefit of the Scheme discussed above. He was entitled for grant of temporary status initially and thereafter was required to be regularized as regular Mazdoor.

6. Management was put to notice and on appearance filed written statement wherein Respondent No.1 and 2 took preliminary objections *inter alia* of cause of action, workman not approaching the court with clean hands, malafide and concealing of material facts etc. It was also alleged that present reference is bad for non-joinder of necessary parties, since the workman has been working under the contractor who was required to be impleaded as a party. It is further alleged that in order to meet exigencies of the work, respondents have taken services of a contractor for providing work force on part-time basis on some dates. As such, engagement of casual workers do not confer upon any workman any automatic right of regularization. On merits, it has been denied that the claimant was engaged as casual labourer since 01.01.0987 on muster roll under Mahesh Chandra, SDO Kashipur. It is also denied that the claimant worked continuously with Department of Telecommunication under SDO, Kashipur. Claimant was not paid wages through ACA 17 slip by SDO Kedar Rai from 2005. Management also denied other material averments made in the statement of claim.

7. Since conciliation between the parties could not be arrived at when the matter was referred to the Regional Labour Commission, as such the Union Government under sub section 2A of Section 10 of the Industrial Disputes Act, 1947, made the following reference:

"Whether the demand of Shri Jeevan Singh, S/o Shri Ram Singh, for reinstatement and regularization of his services with effect from 28.02.2006 in Bharat Sanchar Nigam Limited, who worked with them since last 20 years is valid and justified? If yes, what relief the workman is entitled to.?"

8. Claimant, herein, filed statement of claim as discussed above and on which written statement was filed by Respondent No.1 and 2, i.e. the managements.

9. It is clear from order dated 07.03.2011 passed by my learned predecessor that no specific issues were framed. It was clarified that no other issue than those referred by the appropriate Government under Section 10 of the ID Act for adjudication, is made out.

10. Claimant, in support of his case, examined himself as WW1 and adduced both oral as well as documentary evidence in support of the stand taken in the statement of claim. Similarly, the management examined Shri R.P. Singh as MW 1 so as to rebut the case of the claimant.

11. I have heard Shri Rajinder Singh Palni, A/R for the claimant and Shri Lokesh Sukhwani, A/R for the management.

12. Shri Palni, appearing on behalf of the claimant, urged that the claimant herein was employed as casual labourer by the Department of Telecommunications from 01.01.1987 and in this regard, attention of the court was invited to Annexure P1, which is a certificate issued by SDO Kashipur wherein month-wise details of attendance of the claimant herein has been mentioned. It is, further, clear from the affidavit Ex.WW 1/A of the claimant Shri Jeevan Singh that he has tried to support all the material averments contained in the statement of claim in the said affidavit. Claimant was subjected to cross examination, but there is hardly anything to impeach his credit. Claimant has also made reference to photograph Ex.WW1/1 to Ex.VVW1/4 in his statement.

13. During the course of arguments, much reliance was placed upon the Scheme which came into force on 19.10.1989 regarding of temporary status to casual workmen. It was not disputed even by the respondent that in fact the said Scheme was followed by Department of Telecommunication and in view of the judgement of the Hon'ble Apex Court in the case of Braj Kishore Vs. Union of India, it has been observed that the Scheme is fully applicable to all the casual labourer who have worked for a period of one year irrespective of the cut off date, i.e 01.04.1985 Thus, it is strongly argued on behalf of the claimant that in view of the above Scheme as well as judgment of the Hon'ble Apex Court, management was legally required to grant temporary status as per the above Scheme to the claimant herein.

14. Per contra, Shri Lokesh Sukhwani, A/R for the management, urged that documents in the present case relating to attendance of the workman have not been proved by the workman in accordance with law and as such no reliance can be placed upon such vague and fictitious documents. Secondly, the learned authorized representative of the management proceeded to argue that the workman was not engaged as a casual labourer in a legal manner and in view of the judgement of the Hon'ble Supreme Court in Uma Devi (2006) 4 SCC I, their appointment/engagement was purely illegal being in violation of statutory principles. As such, he cannot be granted any permanent status. Therefore, there is no question of regularization of service of such workmen.

15. Before I proceed to consider the comparative merits of the submissions placed on behalf of either parties, it is pertinent to note here that during the course of arguments, it was not disputed that Department of Telecommunications had issued a circular dated 07.11.1999 and it was made applicable from 01.10.1999 as alleged in para 6 of the statement of claim and the same was applicable to casual labourers who were engaged prior to 01.04.1985. The said circular admittedly was held to be illegal by the Hon'ble Apex Court in Braj Kishore vs. Union of India wherein observations have been made that the above Scheme of casual workers would be applicable to all casual labourers who had continuously worked for a period of one year irrespective of the cut off date, i.e. 01.04.1985.

16. Now the moot question which requires determination in the present case is whether the claimant was directly engaged as casual labourer as alleged by him in the year 1987 under SDO Kashipur. In this regard, it is appropriate to refer to the pleadings as well as affidavit of the workman, Shri Jeevan Singh, filed as Ex.WW1/A wherein the workman has reiterated the stand taken in his statement of claim. Shri Jeevan Singh admitted that SDO Kashipur has issued certificate Ex. WW1/M1, which clearly shows that from January 1987 till September 1987, claimant herein, was working as casual labourer in Department of Telecommunications and the said certificate is signed by Sub Divisional Officer Kashipur, and denied that Ex.WW1/M1 is fake. He has also denied that he has not worked for 240 days with the management in any calendar year.

17. Management in order to rebut the case of the claimant, examined Shri R.P. Singh, SDO as MW 1, whose affidavit is Ex. MW1/A, which is almost on the similar lines as the stand taken in the written statement. He has averred in the affidavit that the Department has imposed ban on recruitment/engagement of casual labourer vide circular 22.01.1988. He has also relied upon the instructions contained in the manual extract, Ex, MW1/2. Further stand of the management has been that the claimant has not worked for a period of 240 days in any calendar year and Shri Madan Chandra was posted as SDO(T), Kashipur during the period 01.03.1987 to 01.12.1987. In his cross examination, he has feigned ignorance whether at present claimant is working under the contractor. He has denied the suggestion that prior to December 2005, the claimant was working under the management.

18. It is clear from the resume of evidence on record that the management has taken the plea that the claimant herein has not worked at any time directly under the management. However, evidence on record is crystal clear that the claimant, even in the year 1987 was employed as casual labourer by the Department of Telecommunications as is evident from perusal of certificate Ex.WW 1/M1. Bare perusal of the above Certificate clearly shows that the claimant herein was employed as a casual labourer in January 1987 and upto September 1987, claimant herein worked for 254 days. Admittedly, Ex.WW 1/M1 clearly shows that the claimant herein was working as casual labourer in Department of Telecommunications.

19. It was argued with much vehemence that the documents relied upon by the claimant are fake and forged; as such they cannot be relied upon. There are other documents filed by the claimant, which clearly shows that till 2005, the claimant herein was directly working with Department of Telecommunications and there is nothing on record to suggest that these documents are fake or fictitious. Prima facie, examination of all these documents clearly shows that they are issued by Bharat Sanchar Nigam Limited and the name of Shri Jeevan Singh, the claimant herein finds mention in all the documents alongwith period

of his employment. These documents also prove that the claimant has worked with Bharat Sanchar Nigam Limited. It is admitted case of parties that Department of Telecommunications stood converted to a Government Company, *i.e.* Bharat Sanchar Nigam Ltd. Thus, there is no merit in the contention of the management that documents cannot be taken into consideration being photocopies of the original as no objection was raised when these documents were tendered in evidence or exhibited by the claimant. No doubt, it is settled proposition of law that mere production and marking of documents as exhibit by the court cannot be held to be due proof of its contents. Its execution is to be proved by admissible evidence. Situation is, however, different when documents are produced and their genuineness is not disputed by the opposite party when they are tendered in evidence or when they are marked as exhibits. I am fortified in my opinion from the case of RVE Venkatachala Gounder versus A.V.V.P. Temples (AIR 2003 SC 4548). This was a case where the Hon'ble Apex Court dealt at length with the question of mode of proof and admissibility of documents and after considering entire case law on the subject, it was held as under:—

“An objection to the admissibility of the document should be raised before such endorsement is made and the Court is obliged to form its opinion on the question of admissibility and express the same on which opinion would depend the document being endorsed as admitted or not admitted in evidence. In the latter case, the document may be returned by the Court to the person from whose custody it was produced.

Ordinarily an objection to the admissibility of evidence should be taken when it is tendered and not subsequently. The objections as to admissibility of documents in evidence may be classified into two classes:- (i) an objection that the document which is sought to be proved is itself inadmissible in evidence; and (ii) where the objection does not dispute the admissibility of the document in evidence but is directed towards the mode of proof alleging the same to be irregular or insufficient. In the first case, merely because a document has been marked as ‘an exhibit’, an objection as to its admissibility is not excluded and is available to be raised even at a later stage or even in appeal or revision. In the latter case, the objection should be taken before the evidence is tendered and once the document has been admitted in evidence and marked as an exhibit, the objection that it should not have been admitted in evidence or that the mode adopted for proving the document is irregular cannot be allowed to be raised at any stage subsequent to the marking of the document as an exhibit.’

20. The same view appears to have been taken in the case of Narbada Devi Gupta versus Birendra Kumar Jaiswal (AIR 2004 SC 175). In view of the ratio of law discussed

above, it is clear in the present case that no objection was taken by the management (i.e. opposite party) when workman while appearing as WW 1 tendered photocopy in evidence. Now, it is too late in the day to urge that the above document, original of which is obviously in possession of the management, has not been proved in accordance with law. Since at no point of time validity of these document was questioned during the course of evidence, as such, contention of the management deserves to be rejected.

21. In view of the above evidence on record, it is held that claimant herein was working as casual labourer during the period 1987 to 2005 in the establishment of the management.

22. Now, the residual question is whether the claimant has worked for 240 days in a calendar year so as to get the benefit of the Scheme framed by Department of Telecommunications regarding grant of temporary status to the casual labourers. Sub clause 1 of Clause 5 of the above Scheme clearly provides that temporary status would be conferred on all casual labourers currently employed and have rendered continuous service for one year in a calendar year. Such casual labourer will be designated as temporary mazdoor. Clause 2 further provides that said conferment of temporary status would be without reference to the creation/availability of regular Group D posts..

23. As discussed above, perusal of certificate Ex.WW1/M1 clearly shows that the claimant herein worked for more than 240 days in a calendar years. In fact, combined reading of the documents shows that claimant herein from March 1987 till date was in the employment of Department of Telecommunications/ BSNL. Thus, the workman herein is liable to be given status of temporary mazdoor in view of the Scheme for grant of temporary status.

24. It was argued with much vehemence by Shri Lokesh Sukhwani, learned authorized representative of the management, that most of the workman who are alleging themselves to be employees of the management were in fact never employed in accordance with any rules or regulations nor there is any specific order regarding employment of such workmen. Appointment of such workman, in the contention of the authorized representative of the management, is backdoor appointment and as such, in view of the ratio of judgement of Hon'ble Apex Court in Secretary State of Karnataka vs Uma Devi (2006) 4 SC1, claimant herein cannot claim to be regularized in derogation of the rules, being back door entry in as much as their appointment is totally illegal.

25. I have carefully gone through the ratio of the above judgement and this plea of the management even did not find favour with the Hon'ble Supreme Court. There are observations that decision of Constitution Bench in Uma Devi case is not attracted or applicable when the question

simply is regularization or mere grant of temporary status to daily or casual labourers. Tribunal cannot ignore that the claimant herein is doing the same kind of job and performing same work which is being performed by workers who are currently employed. The work in question not contingent in nature and the same is perennial and still the management is employing such workers, sometimes through contractors for the performance of needful job.

26. During the course of arguments, reliance was also placed upon judgement of Hon'ble Apex Court in Maharashtra State Road Transport and another vs. Casteribe Rajya Parivahan Karamchari Sanghatana (2009) 8 SCC 556. In the said case, Hon'ble Apex Court dealt with the question of unfair labour practice and specific reference was made to Uma Devi Case (2006) 4 SCC and it was held as under:

"34. It is true that the case of Dharwad District PWD Literate Daily Wage Employees Association vs. State of Karnataka (1990 2 SCC 396) arising out of industrial adjudication has been considered in Umadevi(3) (2006 (4) SCC1) and that decision has been held to be not laying down the correct law but a careful and complete reading of decision in Umadevi (3) leaves no manner of doubt that what this Court was concerned in Umadevi (3) was the exercise of power by the High Courts under Article 226 and this Court under Article 32 of the Constitution of India in the matters of public employment where the employees have been engaged as contractual, temporary or casual workers not based on proper selection as recognized by the rules or procedure and yet orders of their regularization and conferring them status of permanency have been passed.

35. Umadevi (3) is an authoritative pronouncement for the proposition that Supreme Court (Article 32) and High Courts (Article 226) should not issue directions of absorption, regularization or permanent continuance of temporary, contractual, casual, daily wage or ad-hoc employees unless the recruitment itself was made regularly in terms of constitutional scheme.

36. Umadevi(3) does not denude the Industrial and Labour Courts of their statutory power under Section 30 read with Section 32 of MRTU & PULP Act to order permanency of the workers who have been victim of unfair labour practice on the part of the employer under item 6 of Schedule IV where the posts on which they have been working exists. Umadevi (3) cannot be held to have overridden the powers of Industrial and Labour Courts in passing appropriate order under Section 30 of MRTU & PULP Act, once unfair labour practice on the part of the employer under item 6 of Schedule IV is established."

27. In UP State Electricity Board vs. Pooran Chandra Pandey and Others 2007 (12) Scale 304, the Hon'ble Apex



Court has held that the judgement in Uma Devi case cannot be applied mechanically without seeing the facts of a particular case. There are clear observations in the above judgement that ratio of Uma Devi (supra) is not attracted to a case where simply temporary status or regularization has been sought in pursuance of Article 14 of the Constitution.

28. Yet, in another judgement, Hon'ble Apex Court, in the case of Ajaypal Singh Vs. Haryana Warehousing Corporation (2015) 6 SCC 321 dealt with almost similar question as to whether a workman employed in an industry who had completed more than 240 days of service in preceding calendar year, but his services were terminated with effect from 01.07.1988 without one month's notice or pay in lieu thereof in terms of Section 25F of the ID Act. On a reference to the Labour Court, it was held by the Labour Tribunal that termination of services of the worker was illegal and he was entitled to be reinstated with full back wages. This award was challenged by the employer before the High Court in a writ petition and the High Court held that appointment of the worker was made in violation of Article 14 and Article 16 of the Constitution of India. Therefore, the workman was held not to be entitled to be reinstated. However, compensation was awarded to the workman. Aforesaid order was affirmed by Division Bench of the High Court. When the matter was taken by the workman to the Hon'ble Apex Court, plea of irregular or illegal appointment being in violation of Article 14 and Article 16 of the Constitution was out-rightly rejected by the Hon'ble Apex Court by observing as under:

"When no such plea is taken by the employer in the order of retrenchment that the workman was appointed in violation of Articles 14 and 16 of the Constitution or in violation of any statutory rule or his appointment was a back door appointment, while granting relief, it is not open to the employer of a public industrial establishment and undertaking to take a plea that initial appointment of such workman was made in violation of Articles 14 and 16 or the workman was a back door appointee, in absence of a reference made by the appropriate Government for determination of question whether the initial appointment of the workman was in violation of Articles 14 and 16 or statutory rules. Only if such reference is made, a workman is required to lead evidence to prove that he was appointed by following procedure prescribed under the Rules and his initial appointment was legal.

29. Yet, in another case, i.e. ONGC vs. Petroleum Coal Labour Union (2015) Lab.IC 2483, Hon'ble Apex Court dealt with the question of non-regularization of the workmen who were alleged to be not recruited in accordance with the rules/regulations or by following due procedure under the law. In the said case also, the workmen were initially employed as security guards and security supervisors through a contractor. Later on, due to settlement between the workers union and the management, their services were

utilized by ONGC through Co-operative Society to meet its security requirements. Later on, due to decision taken by the Corporation, security work was entrusted to Central Industrial Security Force (CISF) to protect their installation. Matter was taken by the employees union before the High Court on the grounds that this amounts to breach of settlement already arrived at between the parties and Corporation took the stand that workers were not entitled for retention and regularization as their recruitment was not as per norms. Though the employees union lost the case before Single Judge of the Hon'ble High Court, but later on when the matter went to Supreme Court, it was held as under:

'Even though due procedure was not followed by the Corporation for the appointment of the concerned workmen in the post of 'ward and watch security, this does not disentitle them of their right to seek regularization of their services by the Corporation under the provisions of the Certified Standing Orders, after they have rendered more than 240 days of service in a calendar year from the date of the memorandum of appointment issued to each one of the concerned workmen in the year 1988. The alleged "policy decision" to appoint CISF personnel to the security post is on deputation basis and cannot be called appointment perse. Whereas, the concerned workmen have acquired their right to be regularized under the provision of Clause 2(ii) of the 'Certified Standing Orders.

Further, the concerned workmen have clearly completed more than 240 days of services subsequent to the memorandum of appointment issued by the Corporation in the year 1988 in a period of twelve calendar months, therefore, they are entitled for regularization of their services into permanent posts of the Corporation as per the Act as well as the Certified Standing Orders of the Corporation."

30. In the case in hand also, it is not the case of the management that initial appointment of the workman herein is in violation of Article 14 and 16 of the Constitution of India. Rather management has come with the plea that the workman herein was never employed in the year 1987 and was directly working under the contractor.

31. There is no merit in the contention of the management that workman herein is an employee of the contractor. There is nothing on record to suggest as to who was the contractor to whom the management had given the work in question. It was incumbent upon the management to have brought on record all the relevant documents, which show that contractor was awarded contract for employment of casual labourers who were otherwise working for the benefit of the management. Even name of such contractor has not been disclosed by the management. Accordingly, it is held workman herein is/was in the employment of the management.



32. Since this Tribunal has already observed that the workman herein was working under the Department of Telecommunication/Bharat Sanchar Nigam Ltd. right from the year 1987 till the end of 2005, as such workman is held to be in the employment of the respondent management. As a sequel to the above, workman herein is also entitled to be given temporary status in view of the Scheme of "Grant of Temporary Status and Regularization Scheme".

33. So far as question of regularization of service of the workman is concerned, it is clear from record that no rules or regularization or standing order governing the procedure to be followed for regularization of such temporary employees have been filed by either of the parties. Moreover, law is very clear that grant of regularization is not a matter of course and it depends on the facts and circumstances as well as rules and regulations governing such matters. Equally settled is the law that there cannot be any regularization dehors the rules.

34. Consequently, it is held that the workman herein would be duly considered for regularization if the rules or regulations applicable in this regard entitle the workman for such regularization. If similarly situated employees working in the management of the respondent, have been regularized, in that eventuality, workman herein would also be duly considered for such absorption or regularization. Hence, issue is answered accordingly. Hence, an award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A. C. DOGRA, Presiding Officer

Dated: July 28, 2015

#### ANNEXURE

**IN THE COURT OF SHRI AVTAR CHAND DOGRA,  
PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM-LABOUR COURT  
NO.1, KARKARDOOMA COURT COMPLEX, DELHI**

**ID No.6/2011**

Shri Shyam Sunder  
S/o Shri Girdhari Lal  
Vill. Maheshpura, PO Bazpur,  
Udhamsingh Nagar

...Workman

#### Versus

1. The Chief General Manager,  
Bharat Sanchar Nigam Limited,  
Uttarakhand Circle,  
Dehradun
  2. The Telecom District Manager  
Bharat Sanchar Nigam Limited,  
Haldwani
- ...Management

#### AWARD

Background facts giving rise to the reference are that the claimant, Shri Shyam Sunder was engaged as casual labourer on 10.01.1987 under Sub Divisional Officer, Kashipur in the Department of Telecommunication, Rudrapur, Nainital, Uttar Pradesh. Shri Madan Chandra was the SDO of the workman at the time of his initial appointment, who has also issued certificate to the claimant showing the number of days the claimant has worked and the same is Annexure P-1.

2. Thereafter, the claimant continued to work with the Department of Telecommunication under SDO, Kashipur from 18.08.1987 to 07.06.1988 and certificate is Annexure P2. Similarly the claimant worked from 01.02.1989 to 01.05.1990 under SDO Kashipur for a total of 447 days as is clear from Annexure P3.

3. After the year 2005, the claimant has been paid through ACA-17 slip by SDO Kedar Rai. Thus, the workman had been working continuously in the Department of Telecommunications and thereafter the department of Telecommunication framed the scheme of grant of temporary status to the casual labourers known as "Grant of Temporary Status and Regularization Scheme", which came into effect on 01.10.1989. Clause 5 of the said Scheme is as under:

#### 5. Temporary status—

- (i) Temporary status would be conferred of all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).
- (ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts.
- (iii) Conferment of temporary status on a casual labourer would not involve and change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment until/territorial circle on the basis of availability of work.
- (iv) Such casual labourers who acquire temporary status will not, however, be brought on to the permanent establishment unless they are selected through regular selection process for Group posts.

4. After coming into force of the above scheme, Department of Telecommunication issued circular dated 07.11.1989 stating that the said Scheme would be made applicable to those casual labourer who were engaged prior to 01.04.1985. However, the said circular was held to be illegal by the Hon'ble Supreme Court in the matter of Braj Kishore Vs. Union of India, wherein it has been held that

the above scheme would be applicable to all those casual labourer who had continuously worked for a period of one year irrespective of the cut off date, *i.e.* 10.04.1985. Since the claimant was working in the Department of Telecommunication continuously, as such, he was entitled to the benefits of the Scheme discussed above. It is also clear that as per the above Scheme, a person who has continuously worked for 10 years from the date of engagement was entitled to be regularized and applying the grant of temporary status scheme several other casual workers were permanently regularized who have served for 10 years from the date of their original engagement.

5. It is also clear from the statement of claim that in the year 2000, assets and liabilities of Department of Telecommunication were transferred to a Government Company known as Bharat Sanchar Nigam Ltd. and all the officers and employees of all cadres became employees of BSNL. Management, with a view to deny legitimate rights of the claimants in the year 2006 placed the workers under the Contractor and at that time Shri R.P. Singh was the SDO under whom the contractor started working. Being aggrieved, the workers approached the labour authorities and ultimately dispute for regularization of such workers were referred to the Labour Court in Delhi. Since the claimant have been working in the Department of Telecommunication for more than 20 years, as such he was to get benefit of the Scheme discussed above. He was entitled for grant of temporary status initially and thereafter was required to be regularized as regular Mazdoor.

6. Management was put to notice and on appearance filed written statement wherein Respondent No.1 and 2 took preliminary objections inter alia of cause of action, workman not approaching the court with clean hands, malafide and concealing of material facts etc. It was also alleged that present reference is bad 'for non-joinder of necessary parties, since the workman has been working under the contractor who was required to be impleaded as a party. It is further alleged that in order to meet exigencies of the work, respondents have taken services of a contractor for providing work force on part-time basis on some dates. As such, engagement of casual workers do not confer upon any workman any automatic right of regularization. On merits, it has been denied that the claimant was engaged as casual labourer since 10.01.1987 on muster roll under Mahesh Chandra., SDO, Kashipur. It is also denied that the claimant worked continuously with Department of Telecommunication under SDO, Kashipur. Claimant was not paid wages through ACA 17 slip by SDO Kedar Rai from 2005. Management also denied other material averments made in the statement of claim.

7. Since conciliation between the parties could not be arrived at when the matter was referred to the Regional Labour Commission, as such the Union Government under sub section 2A of Section 10 of the Industrial Disputes Act, 1947, made the following reference:

"Whether the demand of Shri Shyam Sunder, S/o Shri Girdhari, for reinstatement and regularization of his services with effect from 28.02.2006 in Bharat Sanchar Nigam Limited, who worked with them since last 20 years is valid and justified? If yes, what relief the workman is entitled to?"

8. Claimant, herein, filed statement of claim as discussed above and on which written statement was filed by Respondent No.1 and 2, *i.e.* the managements.

9. It is clear from order dated 07.03.2011 passed by my learned predecessor that no specific issues were framed. It was clarified that no other issue than those referred by the appropriate Government under Section 10 of the ID Act for adjudication, is made out.

10. Claimant, in support of his case, examined himself as WW1 and adduced both oral as well as documentary evidence in support of the stand taken in the statement of claim. Similarly, the management examined Shri R.P. Singh as MW1 so as to rebut the case of the claimant.

11. I have heard Shri Rajinder Singh Palni, A/R for the claimant and Shri Lokesh Sukhwani, A/R for the management.

12. Shri Palni, appearing on behalf of the claimant, urged that the claimant herein was employed as casual labourer by the Department of Telecommunications from 10.01.1987 and in this regard, attention of the court was invited to Annexure P1, which is a certificate issued by S.D.O. Kashipur wherein month-wise details of attendance of the claimant herein has been mentioned. There is another certificate Annexure P2 which also contains similar details and number of total working days of the claimant during the period 01.08.1987 to 01.06.1988 as 252. It is, further, clear from the affidavit Ex.WW1/A of the claimant Shri Shyam Sunder that he has tried to support all the material averments contained in the statement of claim in the said affidavit. Claimant was subjected to cross examination, but there is hardly anything to impeach his credit. Claimant has also made reference to photograph Ex.WW1/4 to Ex.WW1/10 in his statement.

13. During the course of arguments, much reliance was placed upon the Scheme which came into force on 19.10.1989 regarding of temporary status to casual workmen. It was not disputed even by the respondent that in fact the said Scheme was followed by Department of Telecommunication and in view of the judgement of the Hon'ble Apex Court in the case of *Bray Kishore Vs. Union of India*, it has been observed that the Scheme is fully applicable to all the casual labourer who have worked for a period of one year irrespective of the cut off date, *i.e.* 01.04.1985. Thus, it is strongly agued on behalf of the claimant that in view of the above Scheme as well as judgment of the Hon'ble Apex Court, management was legally required to grant temporary status as per the above Scheme to the claimant herein.

14. Per contra, Shri Lokesh Sukhwani, A/R for the management, urged that documents in the present case relating to attendance of the workman have not been proved by the workman in accordance with law and as such no reliance can be placed upon such vague and fictitious documents. Secondly, the learned authorized representative of the management proceeded to argue that the workman was not engaged as a casual labourer in a legal manner and in view of the judgement of the Hon'ble Supreme Court in Uma Devi (2006) 4 SCC I, their appointment/engagement was purely illegal being in violation of statutory principles. As such, he cannot be granted any permanent status. Therefore, there is no question of regularization of service of such workmen.

15. Before I proceed to consider the comparative merits of the submissions placed on behalf of either parties, it is pertinent to note here that during the course of arguments, it was not disputed that Department of Telecommunications had issued a circular dated 07.11.1999 and it was made applicable from 01.10.1999 as alleged in para 6 of the statement of claim and the same was applicable to casual labourers who were engaged prior to 01.04.1985. The said circular admittedly was held to be illegal by the Hon'ble Apex Court in Braj Kishore vs. Union of India wherein observations have been made that the above Scheme of casual workers would be applicable to all casual labourers who had continuously worked for a period of one year irrespective of the cut off date, *i.e.* 01.04.1985.

16. Now the moot question which requires determination in the present case is whether the claimant was directly engaged as casual labourer as alleged by him in the year 1987 under SDO Kashipur. In this regard, it is appropriate to refer to the pleadings as well as affidavit of the workman, Shri Shyam Sunder, filed as Ex.WW1/A wherein the workman has reiterated the stand taken in his statement of claim. Shri Shyam Sunder admitted that SDO Kashipur has issued certificate Ex.WW1/9, which clearly shows that from January 1987 till July 1987, claimant herein, was working as casual labourer in Department of Telecommunications and the said certificate is signed by Sub Divisional Officer Kashipur, and denied that Ex.WW1/1 is fake. He has also denied that he has not worked for 240 days with the management in any calendar year.

17. Management in order to rebut the case of the claimant, examined Shri R.P. Singh, SDO as MW1, whose affidavit is Ex.MW1/A, which is almost on the similar lines as the stand taken in the written statement. He has averred in the affidavit that the Department has imposed ban on recruitment/engagement of casual labourer *vide* circular 22.01.1988. He has also relied upon the instructions contained in the manual extract, Ex,MW1/2. Further stand of the management has been that the claimant has not worked for a period of 240 days in any calendar year and

Shri Madan Chandra was posted as SDO(T), Kashipur during the period 01.03.1987 to 01.12.1987. In his cross examination, he has feigned ignorance whether at present claimant is working under the contractor. He has denied the suggestion that prior to December 2005, the claimant was working under the management.

18. It is clear from the resume of evidence on record that the management has taken the plea that the claimant herein has not worked at any time directly under the management. However, evidence on record is crystal clear that the claimant, even in the year 1987 was employed as casual labourer by the Department of Telecommunications as is evident from perusal of certificate Ex.WW1/1 and Ex.WW1/2. Bare perusal of the above certificate clearly shows that the claimant herein was employed as a casual labourer in January 1987 and in the said month he worked for 31 days, in the month of February 1987 for 28 days. Further From August 1987 to June 1988, claimant herein worked for 252 days. Admittedly, Ex.WW1/2, for that matter even Ex.WW1/1 clearly shows that the claimant herein was working as casual labourer in Department of Telecommunications.

19. It was argued with much vehemence that the documents relied upon by the claimant are fake and forged; as such they cannot be relied upon. There are other documents filed by the claimant, which clearly shows that till 2005, the claimant herein was directly working with Department of Telecommunications and there is nothing on record to suggest that these documents are fake or fictitious. Prima facie, examination of all these documents clearly shows that they are issued by Bharat Sanchar Nigam Limited and the name of Shri Shyam Sunder, the claimant herein finds mention in all the documents along with period of his employment. These documents also prove that the claimant has worked with Bharat Sanchar Nigam Limited. It is admitted case of parties that Department of Telecommunications stood converted to a Government Company, *i.e.* Bharat Sanchar Nigam Ltd. Thus, there is no merit in the contention of the management that documents Ex.WW1/1 to Ex.WW1/10 cannot be taken into consideration being photocopies of the original as no objection was raised when these documents were tendered in evidence or exhibited by the claimant. No doubt, it is settled proposition of law that mere production and marking of documents as exhibit by the court cannot be held to be due proof of its contents. Its execution is to be proved by admissible evidence. Situation is, however, different when documents are produced and their genuineness is not disputed by the opposite party when they are tendered in evidence or when they are marked as exhibits. I am fortified in my opinion from the case of RVE Venkatachala Gounder versus A.V.V.P, Temples (AIR 2003 SC 4548). This was a case where the Hon'ble Apex Court dealt at length with the question of mode of proof and admissibility of documents and after considering entire case law on the subject, it was held as under:



"An objection to the admissibility of the document should be raised before such endorsement is made and the Court is obliged to form its opinion on the question of admissibility and express the same on which opinion would depend the document being endorsed as admitted or not admitted in evidence. In the latter case, the document may be returned by the Court to the person from whose custody it was produced.

Ordinarily an objection to the admissibility of evidence should be taken when it is tendered and not subsequently. The objections as to admissibility of documents in evidence may be classified into two classes:- (i) an objection that the document which is sought to be proved is itself inadmissible in evidence; and (ii) where the objection does not dispute the admissibility of the document in evidence but is directed towards the mode of proof alleging the same to be irregular or insufficient. In the first case, merely because a document has been marked as 'an exhibit', an objection as to its admissibility is not excluded and is available to be raised even at a later stage or even in appeal or revision. In the latter case, the objection should be taken before the evidence is tendered and once the document has been admitted in evidence and marked as an exhibit, the objection that it should not have been admitted in evidence or that the mode adopted for proving the document is irregular cannot be allowed to be raised at any stage subsequent to the marking of the document as an exhibit.'

20. The same view appears to have been taken in the case of *Narbada Devi Gupta versus Birendra Kumar Jaiswal* (AIR 2004 SC 175). In view of the ratio of law discussed above, it is clear in the present case that no objection was taken by the management (*i.e.* opposite party) when workman while appearing as WW1 tendered photocopy in evidence. Now, it is too late in the day to urge that the above document, original of which is obviously in possession of the management, has not been proved in accordance with law. Since at no point of time validity of these document was questioned during the course of evidence, as such, contention of the management deserves to be rejected.

21. In view of the above evidence on record, it is held that claimant herein was working as casual labourer during the period 1987 to 2005 in the establishment of the management.

22. Now, the residual question is whether the claimant has worked for 240 days in a calendar year so as to get the benefit of the Scheme framed by Department of Telecommunications regarding grant of temporary status to the casual labourers. Sub clause 1 of Clause 5 of the above Scheme clearly provides that temporary status would

be conferred on all casual labourers currently employed and have rendered continuous service for one year in a calendar year. Such casual labourer will be designated as temporary mazdoor. Clause 2 further provides that said conferment of temporary status would be without reference to the creation/availability of regular Group D posts..

23. As discussed above, perusal of certificate Ex.WW1/1 and Ex.WW1/2 clearly shows that the claimant herein worked for more than 240 days in each of the calendar years. In fact, combined reading of these documents shows that claimant herein from March 1987 till date was in the employment of Department of Telecommunications/BSNL. Thus, the workman herein is liable to be given status of temporary mazdoor in view of the Scheme for grant of temporary status.

24. It was argued with much vehemence by Shri Lokesh Sukhwani, learned authorized representative of the management, that most of the workman who are alleging themselves to be employees of the management were in fact never employed in accordance with any rules or regulations nor there is any specific order regarding employment of such workmen. Appointment of such workman, in the contention of the authorized representative of the management, is backdoor appointment and as such, in view of the ratio of judgement of Hon'ble Apex Court in *Secretary, State of Karnataka vs. Uma Devi* (2006) 4 SC1, claimant herein cannot claim to be regularized in derogation of the rules, being back door entry in as much as their appointment is totally illegal.

25. I have carefully gone through the ratio of the above judgement and this plea of the management even did not find favour with the Hon'ble Supreme Court. There are observations that decision of Constitution Bench in *Uma Devi* case is not attracted or applicable when the question simply is regularization or mere grant of temporary status to daily or casual labourers. Tribunal cannot ignore that the claimant herein is doing the same kind of job and performing same work which is being performed by workers who are currently employed. The work in question not contingent in nature and the same is perennial and still the management is employing such workers, sometimes through contractors for the performance of needful job.

26. During the course of arguments, reliance was also placed upon judgement of Hon'ble Apex Court in *Maharashtra State Road Transport and another vs. Casteribe Rajya Parivahan Karamchari Sanghatana* (2009) 8 SCC 556. In the said case, Hon'ble Apex Court dealt with the question of unfair labour practice and specific reference was made to *Uma Devi Case* (2006) 4 SCC and it was held as under:

"34. It is true that the case of *Dharwad District PWD Literate Daily Wage Employees Association vs. State of Karnataka* (1990 2 SCC 396) arising out of industrial



adjudication has been considered in *Umadevi*(3) (2006 (4) SCC1) and that decision has been held to be not laying down the correct law but a careful and complete reading of decision in *Umadevi* (3) leaves no manner of doubt that what this Court was concerned in *Umadevi* (3) was the exercise of power by the High Courts under Article 226 and this Court under Article 32 of the Constitution of India in the matters of public employment where the employees have been engaged as contractual, temporary or casual workers not based on proper selection as recognized by the rules or procedure and yet orders of their regularization and conferring them status of permanency have been passed.

35. *Umadevi* (3) is an authoritative pronouncement for the proposition that Supreme Court (Article 32) and High Courts (Article 226) should not issue directions of absorption, regularization or permanent continuance of temporary, contractual, casual, daily wage or ad-hoc employees unless the recruitment itself was made regularly in terms of constitutional scheme.

36. *Umadevi* (3) does not denude the Industrial and Labour Courts of their statutory power under Section 30 read with Section 32 of MRTU & PULP Act to order permanency of the workers who have been victim of unfair labour practice on the part of the employer under item 6 of Schedule IV where the posts on which they have been working exists. *Umadevi* (3) cannot be held to have overridden the powers of Industrial and Labour Courts in passing appropriate order under Section 30 of MRTU & PULP Act, once unfair labour practice on the part of the employer under item 6 of Schedule IV is established."

27. In *UP State Electricity Board vs. Pooran Chandra Pandey and Others* 2007 (12) Scale 304, the Hon'ble Apex Court has held that the judgement in *Uma Devi* case cannot be applied mechanically without seeing the facts of a particular case. There are clear observations in the above judgement that ratio of *Uma Devi* (supra) is not attracted to a case where simply temporary status or regularization has been sought in pursuance of Article 14 of the Constitution.

28. Yet, in another judgement, Hon'ble Apex Court, in the case of *Ajaypal Singh Vs. Haryana Warehousing Corporation* (2015) 6 SCC 321 dealt with almost similar question as to whether a workman employed in an industry who had completed more than 240 days of service in preceding calendar year, but his services were terminated with effect from 01.07.1988 without one month's notice or pay in lieu thereof in terms of Section 25F of the ID Act. On a reference to the Labour Court, it was held by the Labour Tribunal that termination of services of the worker was illegal and he was entitled to be reinstated with full back wages. This award was challenged by the employer before the High Court in a writ petition and the High Court held that appointment of the worker was made in violation of

Article 14 and Article 16 of the Constitution of India. Therefore, the workman was held not to be entitled to be reinstated. However, compensation was awarded to the workman. Aforesaid order was affirmed by Division Bench of the High Court. When the matter was taken by the workman to the Hon'ble Apex Court, plea of irregular or illegal appointment being in violation of Article 14 and Article 16 of the Constitution was out-rightly rejected by the Hon'ble Apex Court by observing as under:

"When no such plea is taken by the employer in the order of retrenchment that the workman was appointed in violation of Articles 14 and 16 of the Constitution or in violation of any statutory rule or his appointment was a back door appointment, while granting relief, it is not open to the employer of a public industrial establishment and undertaking to take a plea that initial appointment of such workman was made in violation of Articles 14 and 16 or the workman was a back door appointee, in absence of a reference made by the appropriate Government for determination of question whether the initial appointment of the workman was in violation of Articles 14 and 16 or statutory rules. Only if such reference is made, a workman is required to lead evidence to prove that he was appointed by following procedure prescribed under the Rules and his initial appointment was legal.

29. Yet, in another case, *i.e. ONGC vs. Petroleum Coal Labour Union* (2015) Lab. IC 2483, Hon'ble Apex Court dealt with the question of non-regularization of the workmen who were alleged to be not recruited in accordance with the rules/regulations or by following due procedure under the law. In the said case also, the workmen were initially employed as security guards and security supervisors through a contractor. Later on, due to settlement between the workers union and the management, their services were utilized by ONGC through Co-operative Society to meet its security requirements. Later on, due to decision taken by the Corporation, security work was entrusted to Central Industrial Security Force (CISF) to protect their installation. Matter was taken by the employees union before the High Court on the grounds that this amounts to breach of settlement already arrived at between the parties and Corporation took the stand that workers were not entitled for retention and regularization as their recruitment was not as per norms. Though the employees union lost the case before Single Judge of the Hon'ble High Court, but later on when the matter went to Supreme Court, it was held as under:

"Even though due procedure was not followed by the Corporation for the appointment of the concerned workmen in the post of 'ward and watch security, this does not disentitle them of their right to seek regularization of their services by the Corporation under the provisions of the Certified Standing Orders, after they have rendered more than 240 days of service in a

calendar year from the date of the memorandum of appointment issued to each one of the concerned workmen in the year 1988. The alleged "policy decision" to appoint CISF personnel to the security post is on deputation basis and cannot be called appointment per se. Whereas, the concerned workmen have acquired their right to be regularized under the provision of Clause 2(ii) of the 'Certified Standing Orders.

Further, the concerned workmen have clearly completed more than 240 days of services subsequent to the memorandum of appointment issued by the Corporation in the year 1988 in a period of twelve calendar months, therefore, they are entitled for regularization of their services into permanent posts of the Corporation as per the Act as well as the Certified Standing Orders of the Corporation."

30. In the case in hand also, it is not the case of the management that initial appointment of the workman herein is in violation of Article 14 and 16 of the Constitution of India. Rather management has come with the plea that the workman herein was never employed in the year 1987 and was directly working under the contractor.

31. There is no merit in the contention of the management that workman herein is an employee of the contractor. There is nothing on record to suggest as to who was the contractor to whom the management had given the work in question. It was incumbent upon the management to have brought on record all the relevant documents, which show that contractor was awarded contract for employment of casual labourers who were otherwise working for the benefit of the management. Even name of such contractor has not been disclosed by the management. Accordingly, it is held workman herein is/was in the employment of the management.

32. Since this Tribunal has already observed that the workman herein was working under the Department of Telecommunication/Bharat Sanchar Nigam Ltd. right from the year 1987 till the end of 2005, as such workman is held to be in the employment of the respondent management. As a sequel to the above, workman herein is also entitled to be given temporary status in view of the Scheme of 'Grant of Temporary Status and Regularization Scheme'.

33. So far as question of regularization of service of the workman is concerned, it is clear from record that no rules or regularization or standing order governing the procedure to be followed for regularization of such temporary employees have been filed by either of the parties. Moreover, law is very clear that grant of regularization is not a matter of course and it depends on the facts and circumstances as well as rules and regulations governing such matters. Equally settled is the law that there cannot be any regularization dehors the rules.

34. Consequently, it is held that the workman herein would be duly considered for regularization if the rules or regulations applicable in this regard entitle the workman for such regularization. If similarly situated employees working in the management of the respondent, have been regularized, in that eventuality, workman herein would also be duly considered for such absorption or regularization. Hence, issue is answered accordingly. Hence, an award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA, Presiding Officer

Dated: July 28, 2015

#### ANNEXURE

#### IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 7/2011

Shri Sau Prasad Singh  
S/o Shri Tullan Singh  
Vill. Taraf, Post Thakurdwara,  
Moradabad (U.P).

...Workman

#### Versus

1. The Chief General Manager,  
Bharat Sanchar Nigam Limited,  
Uttarakhand Circle,  
Dehradun.
2. The Telecom District Manager  
Bharat Sanchar Nigam Limited,  
Haldwani

...Management

#### AWARD

Background facts giving rise to the reference are that the claimant, Shri Sao Prasad Singh was engaged as casual labour on 01.09.1978 under Sub Divisional Officer, Kashipur in the Department of Telecommunication, Rudrapur, Nainital, Uttar Pradesh. Shri R.R. Vidyasaetu was the SDO, Kashipur under whom the applicant was working, who has also issued certificate to the claimant showing the number of days the claimant has worked and the same is Annexure P-1.

2. Thereafter, the claimant continued to work with the Department of Telecommunication from 01.09.1978 to 31.07.1981 under SDO, R.R. Vidyasitu for total number of 229 days, as is clear from certificate Annexure P-2. Similarly the claimant worked from 13.10.1982 to 30.3.1985 under SDO K.Kumar, from 19.10.1986 to 29.3.1988 under SDO Madan Chand for a total of 360 days and from 13/10/1982 to 31/12/1988 making total number of 862 days as per Annexure

P-2. The workman had continuously worked from 19.10.1986 to 30.3.1987 making total number of 163 days as per Annexure P-3.

3. After the year 2005, the claimant has been paid through ACA-17 slip by SDO Kedar Rai. Thus, the workman had been working continuously in the Department of Telecommunications and thereafter the department of Telecommunication framed the scheme of grant of temporary status to the casual labourers known as 'Grant of Temporary Status and Regularization Scheme', which came into effect on 01.10.1989. Clause 5 of the said Scheme is as under:

5. Temporary status—

- (i) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).
- (ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts.
- (iii) Conferment of temporary status on a casual labourer would not involve and change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment until/territorial circle on the basis of availability of work.
- (iv) Such casual labourers who acquire temporary status will not, however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts.

4. After coming into force of the above scheme, Department of Telecommunication issued circular dated 07.11.1989 stating that the said Scheme would be made applicable to those casual labourer who were engaged prior to 01.04.1985. However, the said circular was held to be illegal by the Hon'ble Supreme Court in the matter of *Braj Kishore Vs. Union of India*, wherein it has been held that the above scheme would be applicable to all those casual labour who had continuously worked for a period of one year irrespective of the cut off date, *i.e.* 10.04.1985. Since the claimant was working in the Department of Telecommunication continuously, as such, he was entitled to the benefits of the Scheme discussed above. It is also clear that as per the above Scheme, a person who has continuously worked for 10 years from the date of engagement was entitled to be regularized and applying the grant of temporary status scheme several other casual workers were permanently regularized who have served for 10 years from the date of their original engagement.

5. It is also clear from the statement of claim that in the year 2000, assets and liabilities of Department of Telecommunication were transferred to a Government

Company known as Bharat Sanchar Nigam Ltd. and all the officers and employees of all cadres became employees of BSNL. Management, with a view to deny legitimate rights of the claimants in the year 2006 placed the workers under the Contractor and at that time Shri R.P. Singh was the SDO under whom the contractor started working. Being aggrieved, the workers approached the labour authorities and ultimately dispute for regularization of such workers were referred to the Labour Court in Delhi. Since the claimant has been working in the Department of Telecommunication for more than 20 years, as such he was to get benefit of the Scheme discussed above. He was entitled for grant of temporary status initially and thereafter was required to be regularized as regular Mazdoor.

6. Management was put to notice and on appearance filed written statement wherein Respondent No. 1 and 2 took preliminary objections inter alia of cause of action, workman not approaching the court with clean hands, malafide and concealing of material facts etc. It was also alleged that present reference is bad for non-joinder of necessary parties, since the workman has been working under the contractor who was required to be impleaded as a party. It is further alleged that in order to meet exigencies of the work, respondents have taken services of a contractor for providing work force on part-time basis on some dates. As such, engagement of casual workers do not confer upon any workman any automatic right of regularization. On merits, it has been denied that the claimant was engaged as casual labour since 01.03.1987 on muster roll under Shri Joshi, SDO Kashipur. It is also denied that the claimant worked continuously with Department of Telecommunication under Kedar Rai, SDO. Claimant was not paid wages through ACA 17 slip by SDO Kedar Rai from 2005. Management also denied other material averments made in the statement of claim.

7. Since conciliation between the parties could not be arrived at when the matter was referred to the Regional Labour Commission, as such the Union Government under sub section 2A of Section 10 of the Industrial Disputes Act, 1947, made the following reference:

"Whether the demand of Shri Sau Prasad Singh, S/o Shri Tullan Singh, for reinstatement and regularization of his services with effect from 28.02.2006 in Bharat Sanchar Nigam Limited, who worked with them since last 20 years is valid and justified? If yes, what relief the workman is entitled to.?"

8. Claimant, herein, filed statement of claim as discussed above and on which written statement was filed by Respondent No. 1 and 2, *i.e.* the managements.

9. It is clear from order dated 07.03.2011 passed by my learned predecessor that no specific issues were framed. It was clarified that no other issue than those referred by the appropriate Government under Section 10 of the ID Act for adjudication, is made out.



10. Claimant, in support of his case, examined himself as WW1 and adduced both oral as well as documentary evidence in support of the stand taken in the statement of claim. Similarly, the management examined Shri R.P. Singh as MW1 so as to rebut the case of the claimant.

11. I have heard Shri Rajinder Singh Palni, A/R for the claimant and Shri Lokesh Sukhwani, A/R for the management.

12. Shri Palni, appearing on behalf of the claimant, urged that the claimant herein was employed as casual labour by the Department of Telecommunications from 01.09.1978 and in this regard, attention of the court was invited to Ex. WW1/17 (Annexure P1), which is a certificate issued by Junior Telecom Officer Kashipur and Ex. WW1/18 issued by SDO Kashipur, wherein month-wise details of attendance of the claimant herein has been mentioned. It is, further, clear from the affidavit Ex. WW1/A of the claimant Shri Sau Prasad Singh that he has tried to support all the material averments contained in the statement of claim in the said affidavit. Claimant was subjected to cross examination, but there is hardly anything to impeach his credit. Claimant has also made reference to photograph Ex. WW1/3 to Ex. WW1/7 in his statement. Perusal of the certificate shows that the same is signed by Junior Telecom Officer and name of Shri Joshi admittedly does not find mention there. In fact, it is photocopy of the original and the said photocopy has been attested by the Principal, AIIC, Talabpur, Jaspur, US Nagar.

13. During the course of arguments, much reliance was placed upon the Scheme which came into force on 19.10.1989 regarding of temporary status to casual workmen. It was not disputed even by the respondent that in fact the said Scheme was followed by Department of Telecommunication and in view of the judgement of the Hon'ble Apex Court in the case of *Braj Kishore Vs. Union of India*, it has been observed that the Scheme is fully applicable to all the casual labour who have worked for a period of one year irrespective of the cut off date, *i.e.* 01.04.1985. Thus, it is strongly agued on behalf of the claimant that in view of the above Scheme as well as judgment of the Hon'ble Apex Court, management was legally required to grant temporary status as per the above Scheme to the claimant herein.

14. Per contra, Shri Lokesh Sukhwani, A/R for the management, urged that documents in the present case relating to attendance of the workman Ex. WW1/18 have not been proved by the workman in accordance with law and as such no reliance can be placed upon such vague and fictitious documents. Secondly, the learned authorized representative of the management proceeded to argue that the workman was not engaged as a casual labour in a legal manner and in view of the judgement of the Hon'ble Supreme Court in *Uma Devi (2006) 4 SCC I*, their appointment/engagement was purely illegal being in violation of statutory principles. As such, he cannot be granted any

permanent status. Therefore, there is no question of regularization of service of such workmen.

15. Before I proceed to consider the comparative merits of the submissions placed on behalf of either parties, it is pertinent to note here that during the course of arguments, it was not disputed that Department of Telecommunications had issued a circular dated 07.11.1999 and it was made applicable from 01.10.1999 as alleged in para 6 of the statement of claim and the same was applicable to casual labourers who were engaged prior to 1.04.1985. The said circular admittedly was held to be illegal by the Hon'ble Apex Court in *Braj Kishore vs. Union of India* wherein observations have been made that the above Scheme of casual workers would be applicable to all casual labourers who had continuously worked for a period of one year irrespective of the cut off date, *i.e.* 01.04.1985.

16. Now the moot question which requires determination in the present case is whether the claimant was directly engaged as casual labour as alleged by him in the year 1978 under SDO Kashipur. In this regard, it is appropriate to refer to the pleadings as well as affidavit of the workman, Shri Sau Prasad Singh, filed as Ex. WW1/A wherein the workman has reiterated the stand taken in his statement of claim. In his cross examination, the claimant has admitted that he has studied only upto 9th class and the claim statement as well as his affidavit, Ex. WW1/A, bears his signatures. He understands English a little bit. He has further admitted that in his affidavit it is mentioned that Shri R.R. Vidyasethu was his SDO 1978. . However, he has admitted this mistake and admitted that Shri Vidyasethu has issued certificate Ex. WW1/17, which clearly shows that from September 1978 to July 1981, claimant herein, was working as casual labour in Department of Telecommunications and the said certificate is verified by Junior Telecom Officer, Kashipur. He has denied that Ex. WW1/17 is fake. He has also denied certificate Ex. WW1/M1 is false. He further denied that he has not worked for 240 days with the management in any calendar year.

17. Management in order to rebut the case of the claimant, examined Shri R.P. Singh, SDO as MW1, whose affidavit is Ex. MW1/A, which is almost on the similar lines as the stand taken in the written statement. He has averred in the affidavit that the Department has imposed ban on recruitment/engagement of casual labour *vide* circular 22.01.1988. He has also relied upon the instructions contained in the manual extract, Ex. MW1/2. Further stand of the management has been that the claimant has not worked for a period of 240 days in any calendar year and Shri Madan Chandra was posted as SDO(T), Kashipur during the period 01.03.1987 to 01.12.1987. He has categorically stated that the claimant has not worked under him during the period from 01.03.1987 to 01.12.1987 for 270 days. In his cross examination, he has feigned ignorance whether at present claimant is working under the contractor.



He has denied the suggestion that prior to December 2005, the claimant was working under the management.

18. It is clear from the resume of evidence on record that the management has taken the plea that the claimant herein has not worked at any time directly under the management. However, evidence on record is crystal clear that the claimant, even in the year 1978 was employed as casual labour by the Department of Telecommunications as is evident from perusal of certificate Ex. WW1/M1 and Ex. WW1/M2. Bare perusal of the above certificate clearly shows that the claimant herein was employed as a casual labour in September 1978 and in the said month he worked for 30 days, in the month of October 1978 for 31 days and so on. No doubt, the claimant herein has wrongly mentioned the name of SDO as Shri Vidyasethu, in his affidavit, to be his SDO in September 1978, but he has clarified that the same has been mentioned inadvertently and the mistake is that of his advocate. He has admitted in his cross examination dated 02.11.2011 that certificate Ex. WW1/9 has been issued by Shri Vidyasethu. To my mind, merely mentioning of a wrong name of employer or SDO cannot be held to fatal to the case of the claimant, who is semi-literate. It has come in evidence that the claimant that he has studied only upto the 9th standard. As such, mere wrong mention of the name of the employer at a particular point of time would not mean that the claimant has set up a wrong claim. Admittedly, Ex. WW1/18, Ex. WW1/19 and for that matter even Ex. WW1/M1 and Ex. WW1/M2 clearly shows that the claimant herein was working as casual labour in Department of Telecommunications.

19. It was argued with much vehemence that the documents relied upon by the claimant are fake and forged; as such they cannot be relied upon. There are other documents filed by the claimant, which clearly shows that till 2005, the claimant herein was directly working with Department of Telecommunications and there is nothing on record to suggest that these documents are fake or fictitious. Prima facie, examination of all these documents clearly shows that they are issued by Bharat Sanchar Nigam Limited and the name of Shri Sau Prasad Singh, the claimant herein finds mention in all the documents alongwith period of his employment. These documents also prove that the claimant has worked with Bharat Sanchar Nigam Limited till 2005. It is admitted case of parties that Department of Telecommunications stood converted to a Government Company, i.e. Bharat Sanchar Nigam Ltd. Thus, there is no merit in the contention of the management that documents Ex. WW1/8 to Ex. WW1/19 cannot be taken into consideration being photocopies of the original as no objection was raised when these documents were tendered in evidence or exhibited by the claimant. No doubt, it is settled proposition of law that mere production and marking of documents as exhibit by the court cannot be held to be due proof of its contents. Its execution is to be proved by admissible evidence. Situation is, however, different when

documents are produced and their genuineness is not disputed by the opposite party when they are tendered in evidence or when they are marked as exhibits. I am fortified in my opinion from the case of *RVE Venkatachala Gounder versus A.V.V.P. Temples* (AIR 2003 SC 4548). This was a case where the Hon'ble Apex Court dealt at length with the question of mode of proof and admissibility of documents and after considering entire case law on the subject, it was held as under:

"An objection to the admissibility of the document should be raised before such endorsement is made and the Court is obliged to form its opinion on the question of admissibility and express the same on which opinion would depend the document being endorsed as admitted or not admitted in evidence. In the latter case, the document may be returned by the Court to the person from whose custody it was produced.

Ordinarily an objection to the admissibility of evidence should be taken when it is tendered and not subsequently. The objections as to admissibility of documents in evidence may be classified into two classes:— (i) an objection that the document which is sought to be proved is itself inadmissible in evidence; and (ii) where the objection does not dispute the admissibility of the document in evidence but is directed towards the mode of proof alleging the same to be irregular or insufficient. In the first case, merely because a document has been marked as 'an exhibit', an objection as to its admissibility is not excluded and is available to be raised even at a later stage or even in appeal or revision. In the latter case, the objection should be taken before the evidence is tendered and once the document has been admitted in evidence and marked as an exhibit, the objection that it should not have been admitted in evidence or that the mode adopted for proving the document is irregular cannot be allowed to be raised at any stage subsequent to the marking of the document as an exhibit.'

20. The same view appears to have been taken in the case of *Narbada Devi Gupta versus Birendra Kumar Jaiswal* (AIR 2004 SC 175). In view of the ratio of law discussed above, it is clear in the present case that no objection was taken by the management (i.e. opposite party) when workman while appearing as WW1 tendered photocopy in evidence. Now, it is too late in the day to urge that the above document, original of which is obviously in possession of the management, has not been proved in accordance with law. Since at no point of time validity of these document was questioned during the course of evidence, as such, contention of the management deserves to be rejected.

21. In view of the above evidence on record, it is held that claimant herein was working as casual labour during the period 1987 to 2005 in the establishment of the management.

22. Now, the residual question is whether the claimant has worked for 240 days in a calendar year so as to get the benefit of the Scheme framed by Department of Telecommunications regarding grant of temporary status to the casual labourers. Sub clause 1 of Clause 5 of the above Scheme clearly provides that temporary status would be conferred on all casual labourers currently employed and have rendered continuous service for one year in a calendar year. Such casual labour will be designated as temporary mazdoor. Clause 2 further provides that said conferment of temporary status would be without reference to the creation/availability of regular Group D posts.

23. As discussed above, perusal of certificate Ex. WW1/1 and Ex. WW1/2 as well as documents Ex. WW1/8 to Ex. WW1/19 clearly shows that the claimant herein, from March 1978 till 2005, was in the employment of Department of Telecommunications/BSNL. Thus, the workman herein is liable to be given status of temporary mazdoor in view of the Scheme for grant of temporary status.

24. It was argued with much vehemence by Shri Lokesh Sukhwani, learned authorized representative of the management, that most of the workman who are alleging themselves to be employees of the management were in fact never employed in accordance with any rules or regulations nor there is any specific order regarding employment of such workmen. Appointment of such workman, in the contention of the authorized representative of the management, is backdoor appointment and as such, in view of the ratio of judgement of Hon'ble Apex Court in Secretary State of Karnataka Vs. Uma Devi (2006) 4 SC1, claimant herein cannot claim to be regularized in derogation of the rules, being back door entry in as much as their appointment is totally illegal.

25. I have carefully gone through the ratio of the above judgement and this plea of the management even did not find favour with the Hon'ble Supreme Court. There are observations that decision of Constitution Bench in Uma Devi case is not attracted or applicable when the question simply is regularization or mere grant of temporary status to daily or casual labourers. Tribunal cannot ignore that the claimant herein is doing the same kind of job and performing same work which is being performed by workers who are currently employed. The work in question not contingent in nature and the same is perennial and still the management is employing such workers, sometimes through contractors for the performance of needful job.

26. During the course of arguments, reliance was also placed upon judgement of Hon'ble Apex Court in Maharashtra State Road Transport and another Vs. Casteribe Rajya Parivahan Karamchari Sanghatana (2009) 8 SCC 556. In the said case, Hon'ble Apex Court dealt with the question of unfair labour practice and specific reference was made to Uma Devi Case (2006) 4 SCC and it was held as under:

"34. It is true that the case of Dharwad District PWD Literate Daily Wage Employees Association Vs. State of Karnataka (1990 2 SCC 396) arising out of industrial adjudication has been considered in Umadevi (3) (2006 (4) SCC1) and that decision has been held to be not laying down the correct law but a careful and complete reading of decision in Umadevi (3) leaves no manner of doubt that what this Court was concerned in Umadevi (3) was the exercise of power by the High Courts under Article 226 and this Court under Article 32 of the Constitution of India in the matters of public employment where the employees have been engaged as contractual, temporary or casual workers not based on proper selection as recognized by the rules or procedure and yet orders of their regularization and conferring them status of permanency have been passed.

35. Umadevi (3) is an authoritative pronouncement for the proposition that Supreme Court (Article 32) and High Courts (Article 226) should not issue directions of absorption, regularization or permanent continuance of temporary, contractual, casual, daily wage or ad-hoc employees unless the recruitment itself was made regularly in terms of constitutional scheme.

36. Umadevi (3) does not denude the Industrial and Labour Courts of their statutory power under Section 30 read with Section 32 of MRTU & PULP Act to order permanency of the workers who have been victim of unfair labour practice on the part of the employer under item 6 of Schedule IV where the posts on which they have been working exists. Umadevi (3) cannot be held to have overridden the powers of Industrial and Labour Courts in passing appropriate order under Section 30 of MRTU & PULP Act, once unfair labour practice on the part of the employer under item 6 of Schedule IV is established."

27. In UP State Electricity Board Vs. Pooran Chandra Pandey and Others 2007 (12) Scale 304, the Hon'ble Apex Court has held that the judgement in Uma Devi case cannot be applied mechanically without seeing the facts of a particular case. There are clear observations in the above judgement that ratio of Uma Devi (supra) is not attracted to a case where simply temporary status or regularization has been sought in pursuance of Article 14 of the Constitution.

28. Yet, in another judgement, Hon'ble Apex Court, in the case of Ajaypal Singh Vs. Haryana Warehousing Corporation (2015) 6 SCC 321 dealt with almost similar question as to whether a workman employed in an industry who had completed more than 240 days of service in preceding calendar year, but his services were terminated with effect from 01.07.1988 without one month's notice or pay in lieu thereof in terms of Section 25F of the ID Act. On a reference to the Labour Court, it was held by the Labour Tribunal that termination of services of the worker was illegal and he was entitled to be reinstated with full back

wages. This award was challenged by the employer before the High Court in a writ petition and the High Court held that appointment of the worker was made in violation of Article 14 and Article 16 of the Constitution of India. Therefore, the workman was held not to be entitled to be reinstated. However, compensation was awarded to the workman. Aforesaid order was affirmed by Division Bench of the High Court. When the matter was taken by the workman to the Hon'ble Apex Court, plea of irregular or illegal appointment being in violation of Article 14 and Article 16 of the Constitution was outrightly rejected by the Hon'ble Apex Court by observing as under:

"When no such plea is taken by the employer in the order of retrenchment that the workman was appointed in violation of Articles 14 and 16 of the Constitution or in violation of any statutory rule or his appointment was a back door appointment, while granting relief, it is not open to the employer of a public industrial establishment and undertaking to take a plea that initial appointment of such workman was made in violation of Articles 14 and 16 or the workman was a back door appointee, in absence of a reference made by the appropriate Government for determination of question whether the initial appointment of the workman was in violation of Articles 14 and 16 or statutory rules. Only if such reference is made, a workman is required to lead evidence to prove that he was appointed by following procedure prescribed under the Rules and his initial appointment was legal.

29. Yet, in another case, i.e. ONGC vs Petroleum Coal Labour Union (2015) Lab. IC 2483, Hon'ble Apex Court dealt with the question of non-regularization of the workmen who were alleged to be not recruited in accordance with the rules/regulations or by following due procedure under the law. In the said case also, the workmen were initially employed as security guards and security supervisors through a contractor. Later on, due to settlement between the workers union and the management, their services were utilized by ONGC through Co-operative Society to meet its security requirements. Later on, due to decision taken by the Corporation, security work was entrusted to Central Industrial Security Force (CISF) to protect their installation. Matter was taken by the employees union before the High Court on the grounds that this amounts to breach of settlement already arrived at between the parties and Corporation took the stand that workers were not entitled for retention and regularization as their recruitment was not as per norms. Though the employees union lost the case before Single Judge of the Hon'ble High Court, but later on when the matter went to Supreme Court, it was held as under:

'Even though due procedure was not followed by the Corporation for the appointment of the concerned workmen in the post of 'ward and watch security, this

does not disentitle them of their right to seek regularization of their services by the Corporation under the provisions of the Certified Standing Orders, after they have rendered more than 240 days of service in a calendar year from the date of the memorandum of appointment issued to each one of the concerned workmen in the year 1988. The alleged "policy decision" to appoint CISF personnel to the security post is on deputation basis and cannot be called appointment perse. Whereas, the concerned workmen have acquired their right to be regularized under the provision of Clause 2(ii) of the 'Certified Standing Orders .

Further, the concerned workmen have clearly completed more than 240 days of services subsequent to the memorandum of appointment issued by the Corporation in the year 1988 in a period of twelve calendar months, therefore, they are entitled for regularization of their services into permanent posts of the Corporation as per the Act as well as the Certified Standing Orders of the Corporation."

30. In the case in hand also, it is not the case of the management that initial appointment of the workman herein is in violation of Article 14 and 16 of the Constitution of India. Rather management has come with the plea that the workman herein was never employed in the year 1987 and was directly working under the contractor.

31. There is no merit in the contention of the management that workman herein is an employee of the contractor. There is nothing on record to suggest as to who was the contractor to whom the management had given the work in question. IT was incumbent upon the management to have brought on record all the relevant documents, which show that contractor was awarded contract for employment of casual labourers who were otherwise working for the benefit of the management. Even name of such contractor has not been disclosed by the management. Accordingly, it is held workman herein is/was in the employment of the management.

32. Since this Tribunal has already held that the workman herein was working under the Department of Telecommunication/Bharat Sanchar Nigam Ltd. right from the year 1987 till the end of 2005, as such workman is held to be in the employment of the respondent management. As a sequel to the above, workman herein is also entitled to be given temporary status in view of the Scheme of 'Grant of Temporary Status and Regularization Scheme.

33. So far as question of regularization of service of the workman is concerned, it is clear from record that no rules or regularization or standing order governing the procedure to be followed for regularization of such temporary employees have been filed by either of the parties. Moreover, law is very clear that grant of regularization is not a matter of course and it depends on the facts and



circumstances as well as rules and regulations governing such matters. Equally settled is the law that there cannot be any regularization dehors the rules.

34. Consequently, it is held that the workman herein would be duly considered for regularization if the rules or regulations applicable in this regard entitle the workman for such regularization. If similarly situated employees working in the management of the respondent, have been regularized, in that eventuality, workman herein would also be duly considered for such absorption or regularization. Hence, Reference is answered accordingly. Hence, an award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated: July 28, 2015

A.C. DOGRA, Presiding Officer

नई दिल्ली, 20 अगस्त, 2015

**का.आ. 1686.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमिश्नर, नार्थ डेल्ही म्युनिसिपल कारपोरेशन के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, दिल्ली के पंचाट (संदर्भ सं० 52/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 19/08/2015 प्राप्त हुआ था।

[सं० एल-42011/145/2014-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 20th August, 2015

**S.O. 1686.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 52/2015) of the Central Government Industrial Tribunal Cum Labour Court No. 1, Delhi now shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Commissioner, North Delhi Municipal Corporation and their workmen, which was received by the Central Government on 19/08/2015.

[No. L-42011/145/2014-IR(DU)]

P.K. VENUGOPAL, Desk Officer

#### ANNEXURE

**IN THE COURT OF SHRI AVTAR CHAND DOGRA,  
PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT NO. 1, KARKARDOOMA COURT  
COMPLEX, DELHI**

**ID No. 52/2015**

Shri Lakhpat Singh and Yoginder,

Through Delhi Udhiyan Sangharsh Union,  
B-5, Ram Gali, North Ghonda,  
New Delhi-110053

...Workman

#### Versus

The Commissioner,  
North Delhi Municipal Corporation  
9th Floor, Civic Centre,  
Minto Road,  
New Delhi-110002

...Management

#### AWARD

Central Government, *vide* letter No. L-42011/145/2014-IR(DU) dated 19.01.2015, referred the following industrial dispute to this Tribunal for adjudication:

"Whether the appointment of the workmen Shri Lakhpat Singh, S/o Shri Babu Ram and Shri Yogender, S/o Shri Shankar on the post of Nala Beldar with effect from 01.04.2006 instead of Beldar is just, fair and legal? If not, to what relief the workmen concerned are entitled to?"

2. On receipt of the above reference, notice was sent to the workman as well as the management. None appeared on behalf of the claimant. At such, this Tribunal ordered issuance of fresh notice to the workman on 18.03.2015 and 23.06.2015. Neither the postal articles, referred above, were received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notices were served upon the claimants. Despite service of these notices, claimants opted to abstain away from the proceedings. No claim statement was filed on their behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

3. Since the workmen have neither put in their appearance nor have they led any evidence so as to prove their cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated: August 13, 2015

A.C. DOGRA, Presiding Officer

नई दिल्ली, 18 अगस्त, 2015

**का.आ. 1687.**—राष्ट्रपति, केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, अहमदाबाद के लिंक अधिकारी के रूप में केन्द्रीय सरकार औद्योगिक-सह-श्रम न्यायालय, जयपुर के पीठासीन अधिकारी श्री भरत पाण्डे को दिनांक 01.07.2015 से अगले



छः माह की समयावधि तक अथवा नियमित पदधारण की नियुक्ति होने तक अथवा अगले आदेशों तक, इनमें से जो भी पहले हो तब तक के लिए अतिरिक्त कार्यभार बढ़ाते हैं।

[सं ए-11016/03/2015-सीएलएस-II]

संतोष कुमार सिंह, अवर सचिव

New Delhi, the 18th August, 2015

**S.O. 1687.**—The President is pleased to extend the additional charge of the post of Presiding Officer of the Central Government Industrial Tribunal-cum-Labour Courts, Ahmedabad to Shri Bharat Pandey, Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Jaipur for a period of six months w.e.f. 01.07.2015 or till appointment of a regular incumbent or until further orders, whichever is the earliest.

[No. A-11016/03/2015-CLS-II]

S. K. SINGH, Under Secy.

नई दिल्ली, 18 अगस्त, 2015

**का.आ. 1688.**—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा-(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 सितम्बर, 2015 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 (धारा-76 की उप धारा-(1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबंध उत्तराखंड राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:—

क्र०सं	राजस्व ग्राम का नाम	राजस्व परगना	राजस्व तहसील	जिला
1.	मजरी ग्रांट, लाल तप्पड, लालतप्पड मजरा।	डोईवाला	डोईवाला	देहरादून

[सं एस-38013/86/2015-एसएस-1]

अजय मलिक, अवर सचिव

New Delhi, the 18th August, 2015

**S.O. 1688.**—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st September, 2015 as the date on

which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI (except Sub-section (1) of Section 76 and Sections 77, 78 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Uttarakhand namely:—

S. No.	Name of the Revenue Village	Revenue Pargana	Revenue Tehsil	District
1.	Majri Grant, Lal Tappar, Lal Tappar Majra	Doiwala	Doiwala	Dehradun

[No. S-38013/86/2015-S.S. I]

AJAY MALIK, Under Secy.

नई दिल्ली, 18 अगस्त, 2015

**का.आ. 1689.**—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा-(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 सितम्बर, 2015 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 (धारा-76 की उप धारा-(1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबंध केरल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:

रेवेन्यु विल्लेज कुरुम्पाला, तालुक अडूर, जिला-पत्तनमतिट्टा।

[सं एस-38013/84/2015-एस.एस. 1]

अजय मलिक, अवर सचिव

New Delhi, the 18th August, 2015

**S.O. 1689.**—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st September, 2015 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI (except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Kerala namely:—

Revenue Village of Kurumpala in Adoor Taluk, of Pathanamthitta District.

[No. S-38013/84/2015-S.S. I]

AJAY MALIK, Under Secy.